

**207-A IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-37406 of 2022(O&M)

Date of Decision: 07.02.2023

Prince Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Shakti Mehta, Advocate
For the petitioner.**

Mr. M.S. Nagra, AAG Punjab.

**Mr. Pradeep Sharma, Advocate
For the complainant.**

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 91 dated 25.06.2022, registered under Sections 420 and 120-B IPC at Police Station City-1, Sangrur, District Sangrur.

The allegations in nutshell are that complainant Nikhil Mittal lodged complaint with the police against the petitioner and his brother-in-law Gaurav Singla wherein it has been alleged that both the said accused approached the complainant with a scheme of supplying various goods to the complainant at highly discounted rates and in this manner the accused persons took an amount of Rs.47,15,100/- but failed to supply him the concerned goods and thus committed fraud.

The counsel for the petitioner submits that actually complainant Nikhil Mittal and petitioner Prince Kumar were running joint business and

this fact is also revealed during the investigation of this case. The counsel for the petitioner further submits that both of them had invested huge money in a joint business and they also used to share the profits but in one deal loss was suffered and now the complainant intends that the said loss be borne only by the petitioner. The counsel for the petitioner further submits that even otherwise as per the allegations made in the FIR, the dispute between the parties is of civil nature which has been given color of a criminal case. The counsel for the petitioner further submits that the petitioner is ready to join the investigation with the police.

The present petition is contested by the State as well as the counsel for the complainant.

Reply by way of affidavit of Ajay Pal Singh, Deputy Superintendent of Police, Sub Division Sangrur filed on behalf of the State is already there on the record. As per the said reply, complainant Nikhil Mittal and petitioner Prince Kumar got acquainted with each other and thereafter they entered into deal regarding purchase of electronic fans and for that purpose complainant transferred certain amount in the bank account of M/s Shiva Enterprises, the firm owned by petitioner Prince Kumar, on different occasions as has been detailed in para No.3 of the said reply. The accused persons also took money from the complainant on the pretext of supply of Air Conditioners and LEDs to him and duped him of about Rs.52,55,100/- as they failed to supply the agreed goods to the complainant.

The counsel appearing on behalf of the complainant submits that the petitioner is a habitual offender and complaints Annexure R-2/1 to Annexure R-2/7 are already lodged against the petitioner by different persons who are duped by him. The counsel for the complainant has further

brought to the notice that now two another FIRs have been registered against the petitioner under Sections 420/ 406 IPC and the copies of the same are taken on record.

I have considered the submissions made by counsel for the parties.

As per the allegations appearing on record, the petitioner took an amount of Rs.47,15,100/- from the complainant on the pretext of supplying him electronic goods at discounted rates but thereafter he failed to do so. Even during pendency of present petition, an offer was given to the petitioner to explore the possibility of amicable settlement and the matter was also referred to the Mediator, but the mediation did not succeed. No doubt the present case being of breach of contract entails civil liability, but *prima facie* there being element of *malafide* intention on the part of the petitioner, the dispute also contain the ingredients of criminal offences.

In view of the above, this Court is of the opinion that the custodial interrogation of the petitioner is necessary to go to the root of the case and thus, the petitioner is not entitled to concession of anticipatory bail.

Consequently, the present petition is hereby dismissed being devoid of merits. Interim order, if any, whereby on the earlier date the arrest of the petitioner was stayed, is hereby vacated. However, any observations made hereinabove are not to be construed as an expression of opinion on the merits of the case.

07.02.2023
Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No