

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203

1. CRM-M-40033-2022 (O&M)
Date of decision: 30.10.2023

Abhishek TyagiPetitioner

Versus

State of HaryanaRespondent

2. CRM-M-43784-2022 (O&M)
Date of decision: 30.10.2023

Vikas Tyagi @ Vikas KumarPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gaurav Mohunta, Advocate
for the petitioners.

Ms. Trishanjali Sharma, DAG, Haryana.

Mr. K.P. Singh, Advocate and
Mr. Prateek Gupta, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.395 dated 28.07.2022 under Sections 406, 420 and 120-B of the IPC, registered at Police Station Ambala City, District Ambala.

2. In CRM-M-40033-2022, a Coordinate Bench of this Court issued notice of motion vide order dated 05.09.2022 after noticing the following submissions of the counsel for petitioner Abhishek Tyagi:-

“Learned counsel for the petitioner contends that out of the disputed amount, the petitioner has already paid a handsome amount to the complainant; that at one juncture, a compromise was effected between the parties; that the petitioner is still ready to settle the dispute with the complainant, and that to show his bona fide, the petitioner is ready to hand over a demand draft of Rs.15 lakh in favour of the complainant, to the Investigating Officer.”

3. In CRM-M-43784-2022, a Coordinate Bench of this Court issued notice of motion vide order dated 27.09.2022 after noticing the following submissions of the counsel for petitioner Vikas Tyagi:-

“Learned counsel for the petitioner contends that the FIR has been registered on the complaint of Aryan Aggarwal, against the petitioner and his brother Abhishek Tyagi; that out of the disputed amount, the petitioner and his brother, have already paid a handsome amount to the complainant; that at one juncture, a compromise was effected between the parties; that the petitioner is still ready to settle the dispute with the complainant; that Abhishek Tyagi, brother of the petitioner, has already handed over a demand draft of Rs.15 lakh in the name of the complainant to the Investigating Officer and that to show his bona fide, the petitioner is ready to hand over a demand draft of Rs.5 lakh in favour of the complainant.”

4. While issuing notice of motion in both the petitions, with the consent of both the parties, the matter was referred to the Mediation and Conciliation Centre of this Court for an amicable settlement. The Coordinate Bench while ordering that no coercive steps shall be taken against the petitioner(s), in the meantime, also directed that petitioner Vikas Tyagi shall hand over a demand draft of ₹5 lakhs to the complainant in his name, before the Mediation and Conciliation Centre of this Court and petitioner Abhishek Tyagi shall hand over a demand

draft of ₹15 lakhs in favour of the complainant to the investigating officer. In addition, petitioner Abhishek Tyagi, who is also brother of petitioner Vikas Tyagi, was directed to re-validate the demand drafts of ₹15 lakhs which had been handed over to the investigating officer.

5. As per report received from the Mediation and Conciliation Centre of this Court dated 21.12.2022, it was reported that there were chances of an amicable settlement between the parties and thereafter, the parties were again directed to appear before the Mediation and Conciliation Centre of this Court.

6. Vide orders dated 24.03.2023, this Court then directed the petitioners to join investigation.

7. When the case came up for hearing before this Court on 04.10.2023, it was not disputed by the learned counsel for the complainant that the parties had effected a compromise vide Annexure R-2/6, however, it was subject to the condition that in case the petitioners were unable to pay back ₹33 lakhs to the complainant, the vehicle in question, which was worth about ₹32 lakhs, would be transferred in the name of the complainant. It was contended by the complainant that the petitioners had, however, failed to abide by the undertaking given in pursuance of the compromise arrived at between them. Thereafter, the case was adjourned to 09.10.2023.

8. On 09.10.2023, learned counsel counsel for the petitioners undertook that within one week, they would either transfer the RC of the car in the name of the complainant or else would pay ₹33 lakhs in lieu of the same. Thereafter, the case was again adjourned to

30.10.2023. In the meantime, the petitioners approached Hon'ble the Supreme Court to impugn the condition imposed on them to either transfer the RC of the car or pay ₹ 33 lakhs in lieu of the same. Hon'ble the Supreme Court vide order dated 19.10.2023 passed the following order:-

“We are not inclined to interfere with the impugned judgments/orders, but clarify that in case of non-payment, an application for grant of anticipatory bail should be decided in view of judgments of this court in Ramesh Kumar v. State of NCT of Delhi, Dilip Singh v. State of M.P., etc.

The application will be decided by the High Court on merits and in accordance with law.

In case the respondent-State of Haryana or the informant has grievance against this order, it will be entitled to move an application for recall.

Interim protection granted by the High Court to the petitioners-Abhishek Tyagi and Vikas Tyagi will continue till the next date of hearing in CRM-M nos. 40033/2022 and 43784/2022 (O&M) before the High Court.....”

9. Thus, in view of the aforementioned order of Hon'ble the Supreme Court, this Court now proceeds to decide the petitions on merits.

10. Learned counsel for the petitioners has reiterated that out of the disputed amount, the petitioners have already paid the outstanding amount to the complainant. It has also been submitted that in compliance of order dated 24.03.2023, the petitioners have joined investigation and cooperated with the investigating agency and hence, their custodial interrogation would not be required.

11. Learned State counsel, on instructions, has not disputed the factum of the petitioners having joined investigation and that the

custodial interrogation of the petitioners is not required by them. It has also not been disputed that the case in hand rests primarily on documentary evidence.

12. However, learned counsel for the complainant has opposed the prayer for making the orders dated 24.03.2023 absolute in view of the fact that the petitioners have failed to adhere to the terms and conditions of the compromise so effected between them.

13. I have heard learned counsel for the parties and perused the relevant material on record.

14. Admittedly, the petitioners have already paid a substantial sum out of the outstanding amount, to the complainant. The case in hand rests on documentary evidence. As has not been disputed by learned State counsel, the petitioners have already joined investigation and cooperated with the investigating agency.

15. In view of the above, the petitions are allowed and interim orders dated 24.03.2023, are made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

30.10.2023

Vinay

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No