

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-39074-2023

Date of decision : 03.10.2023

Mukesh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent: Mr.Shailender Singh Momi, Advocate
for the petitioner.

Mr.Amandeep Joshi, DAG, Haryana.

Mr. Rajender Kumar, Advocate for
Mr.Aman Pal, Advocate
for the complainant.**VIKAS BAHL, J.(ORAL)**

1. This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.216 dated 03.07.2020 registered under Sections 406, 420, 506, 201, 120-B IPC (Sections 467, 468, 471 IPC added later on) at Police Station Taraori, District Karnal.

2. On 10.08.2023, this Court was pleased to pass the following order:-

“Inter alia contends that in the present case, a civil dispute is sought to be given criminal colour. It is submitted that the petitioner is not named in the FIR and thus, there is no question of any fraudulent inducement by the petitioner so as to constitute the offence under Section 420 IPC. It is further submitted that even as per the prosecution case, there is no entrustment to the present petitioner by the complainant and thus, the offence under Section 406 IPC is also not made out. It is further submitted that there is no allegation that the petitioner has criminally intimidating the complainant and thus, the offence under Section 506 IPC is also

not made out. It is stated that even as per the FIR, it is the version of the complainant that out of Rs.11,12,24,277/-, an amount of Rs.4,49,00,000/- has been paid back by the firm known as Guru Nanak Agro Industries and thus, it cannot be said that even Guru Nanak Agro Industries had mala fide intention right from the inception as even as per the version of the complainant, money has been returned by them. It is further stated that the petitioner is not a partner of the Guru Nanak Agro Industries with whom the complainant party had dealings and who as per the complainant, has to return Rs.7,20,78,184/-. It is submitted that a civil suit has already been filed by the complainant party and that it is the case of the partners of Guru Nanak Agro Industries that the paddy, which was supplied by the complainant firm, was sub standard and thus, the main accused have a reasonable defence in the civil proceedings. Learned counsel for the petitioner has further submitted that the petitioner is sought to be roped in only since he is a silent partner in M/s LGR Foods in which Lakhwinder Singh is a partner and there are allegations that some money has been transferred from the Guru Nanak Agro Industries firm to M/s LGR Foods. It is stated that once there is no privity of contract between the petitioner and the complainant, the petitioner cannot be prosecuted for the offences as mentioned in the FIR . It is further stated that at any rate, the entire case is based on documentary evidence and the petitioner would fully cooperate with the investigating agency in case interim protection is granted to the petitioner.

Notice of motion for 03.10.2023.

In the meantime, in the event of arrest, the petitioner is ordered to be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

August 10, 2023.”

3. Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has joined the investigation.

4. Learned State counsel has submitted that although the petitioner has joined investigation on 19.09.2023 but has not got any

amount recovered.

5. Learned counsel for the petitioner, in rebuttal, has submitted that no amount is due from the petitioner and thus, the question of his paying any money to the complainant party in the present FIR in which a civil dispute is sought to be given a criminal colour, does not arise. It is further submitted that the registration of the FIR cannot be made a tool to recover money from the accused persons moreso, when the petitioner is neither named in the FIR nor there is any entrustment to the petitioner as per the allegations in the FIR nor there is any allegation of criminal intimidation in the FIR nor the petitioner is a partner of Guru Nanak Agro Industries with whom the complainant party had dealings and the civil suit has already been filed by the complainant party.

6. Keeping in view the above said facts and circumstances moreso, the facts which have been noticed in the order dated 10.08.2023, and also the fact that the petitioner has joined the investigation and the entire case is based on documentary evidence and also the fact that a civil suit has already been filed by the complainant party, the present petition is allowed and the interim order dated 10.08.2023 is made absolute.

7. Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

October 03, 2023.
Davinder Kumar

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