

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202-1

CRM-M-558-2023
Date of decision : 19.04.2024

Suyash Jaiswal Petitioner

versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Rahul Sharma, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. R.S. Khosla, Senior Advocate with
Mr. Yogender Verma, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

1. While issuing notice of motion on 09.01.2023, following order was passed:-

“Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.454, dated 01.12.2022, under Sections 420, 406 and 120-B IPC, registered at Police Station Sector 31, Faridabad.

It has been contended by learned senior counsel that the present FIR has been lodged to recover the alleged money by the complainant. He has submitted that the petitioner and the complainant formed a proprietor firm of which the petitioner is the holder of Mineral Dealer Licence (MDL) in U.P. and the mineral was used to be brought by the complainant in Haryana. He submits that the dispute has arisen only for the share of the money on account of which the

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petitioner has already filed a suit for recovery as well. He has submitted that the present FIR has been lodged to give colour of a criminal case to the civil dispute, as suit is pending between the complainant and the petitioner. He submits that GST, as alleged, has already been paid by the petitioner. He further submits that dispute, if at all, is civil in nature and the same is only to be decided by the Civil Court on the basis of evidence to be led before the concerned Court. He submits that the petitioner has no criminal antecedents and in view of the aforementioned facts, no case for custodial interrogation is made out, however, he is ready to join the investigation and abide by all the terms and conditions of the anticipatory bail if this Court considers his request for granting the same.

Issue notice of motion for 27.03.2023.

Mr.Pankaj Nanhera, Advocate, who is present in Court, puts in appearance on behalf of the complainant and opposes the submissions made by learned senior counsel for the petitioner. He has submitted that the petitioner has cheated the complainant by violating the terms and conditions of the contract.

On the asking of the Court, Mr.B.S.Virk, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C.:-

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“(i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so;
(ii) That the petitioner shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
(iii) That the petitioner shall not leave India without prior permission of the Court.”

State is directed to file status report on or before the next date of hearing.”

2. Today, Mr. Ambavta, on instructions from PSI Parveen, submits that though the petitioner has joined but is not cooperating. On being asked as to what cooperation is lacking, he says that the sand could not be got recovered.

3. Mr. Khosla, learned senior counsel appearing for the complainant however submits that it is a case wherein there is a forgery of bills by the petitioners which has resulted in evasion of GST and thus the allegations being serious against the petitioners does not deserve to be granted pre-arrest bail.

4. I have heard counsel for the parties and have gone through the records of the case.

5. The precise allegation in the FIR is regarding dispute with respect to the commission that the complainant thought was payable to him but not paid by the petitioner.

6. Keeping in view that the petitioner was granted interim relief in January 2023 and admittedly has joined the investigation, the order

dated 09.01.2023 is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

7. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
8. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.
9. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.
10. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
11. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.
12. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

19.04.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No