

2024:PHHC:048460

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

101

CRM-M-7510-2024
Date of Decision : 09.04.2024

BHARAT BHUSHAN BANSALPetitioner

VERSUS

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Mansur Ali, Advocate with
Mr. Arshdeep Singh, Advocate,
for the petitioner.

Mr.Pardeep Bajaj, DAG, Punjab.

Mr. Bipin Ghai, Sr. Advocate with
Mr. Nikhil Ghail and Tushan Rawal, Advocates,
for the complainant.

KULDEEP TIWARI. J.(Oral)

1. On 13.02.2024, the following order was passed by this

Court:-

“1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner has sought the concession of anticipatory bail, in case FIR No.558 dated 10.11.2021, under Sections 406, 420, 120- B of the IPC, registered at P.S. Zirakpur, District S.A.S. Nagar.

2. The allegations, as levelled against the petitioner and his coaccused are that, they cheated the complainants to the tune of Rs.45,00,000/- in lieu of getting them approval for a huge loan amount. However, whenever the complainants contacted the petitioner and his coaccused, they always put off the matter on false pretexts of their loan being in the process of approval. Furthermore, after registration of FIR, the petitioner and his co-accused arrived at a compromise with the complainant party, according to which, the petitioner has to pay Rs.10,00,000/- to the complainant party, while his co-accused have to pay Rs.15,00,000/- to the complainant party, as part of the settlement amount. However, nothing has been paid by the petitioner and his co-accused to the complainant party.

3. The learned counsel for the petitioner has argued that in fact the actual story is the other way round. In the year 2019, one Simplex Projects Ltd. had transferred an amount of Rs.20,00,000/- through bank entries to the partnership firm by the name of High-Rise Consultancy, in which the petitioner was a partner along with other partners, namely, Anmol Gilhotra and

Arman Gilhotra. In fact, the amount (supra) was used by the other partners of the firm and the bank account transaction is a matter of record. In the meanwhile, owing to eruption of a dispute inter se the partners of the firm, the petitioner had, after giving a public notice, dissolved the said partnership firm in the year 2020. Thereafter, the company Simplex Projects Ltd. also went into liquidation and the liquidation proceedings are yet pending.

4. The learned counsel for the petitioner has informed this Court that R.P. (Resolution Professional) was appointed on 27.04.2022 and was confirmed on 27.06.2022. However, since 2019 and till date, neither any money was claimed by the aforesaid company as a matter of right, nor any recovery suit was filed. Surprisingly, now a complaint has been filed, however that too, without following the due procedure as prescribed under the Companies Act, inasmuch as, the instant complaint has been filed merely on the basis of an authorization letter from one of the Directors concerned, without any valid resolution of the Company.

5. Lastly, the learned counsel for the petitioner has argued that the present complainants are acting like recovery agents, whereas, they do not have any locus to represent the aforesaid company, which is under liquidation. Moreover, to express the bona fide of the petitioner, he has submitted that the petitioner is ready to deposit a demand draft of Rs.10,00,000/- in favour of the complainant company.

6. Be that as it may, this Court cannot act like a recovery agent and direct the petitioner to deposit Rs.10,00,000/-, which in fact, if need arises, is required to be tendered before the appropriate forum/quarter concerned.

7. At this stage, Mr. Manvinder Singh Dalal, Advocate, records his appearance on behalf of the complainants, under a validly executed Vakalatnama, instituted before this Court today, and, opposes the present petition.

8. Notice of motion.

9. Mr. Pardeep Bajaj, D.A.G., Punjab, accepts notice on behalf of respondent-State, and, he is directed to file a specific reply on or before the subsequent date of hearing, detailing therein, as to how the present FIR has been registered, despite the complainant company is under liquidation, and, despite no claim qua recovery ever being raised.

10. List on 04.03.2024 along with CRM-M-3444-2024 in the urgent list.

11. In the meantime, the petitioner is directed to join the investigation and to appear before the investigating agency, as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.”

2. Learned State counsel, on instructions imparted to him by ASI Nirmal Singh, submits that the petitioner has already joined

the investigation in pursuance to the aforesaid order, and he has fully co-operated with the investigation process, and is no more required for any further custodial investigation.

3. In view of the specific stand taken by the learned State counsel, the present petition is allowed, and order dated 13.02.2024 is, hereby, made absolute, on the terms and conditions as envisaged under Section 438(2) of the Cr.P.C.

April 09, 2024

dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No