

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33773-2024
Decided on 17.07.2024

Lakhwinder Singh Tung

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Ms. Sandhya Gaur, Advocate for the petitioner

Mr. Rajiv Verma, DAG Punjab

Mr. Gautam Dutt, Advocate for the complainant

Sandeep Moudgil, J.

(1). The petitioner has filed the instant petition under Section 438 CrPC seeking anticipatory bail in case FIR No.0131 dated 01.09.2023 under Sections 406/420/506/120-B IPC registered at Police Station Civil Lines, Patiala (Annexure P1).

(2). Facts as culminating from the FIR read as under:-

“To, Hon'ble SSP Sahib, Patiala Subject: Take action on the application against (1) Lakhwinder Singh Tung son of Ajit Singh (2) Simrandeep Singh son of Lakhwinder Singh Director Tung Builder Pvt Ltd Gurdaspur for defrauding and cheating the applicant and not returning the amount to the applicant and regarding death threats given to the applicant and his family. Sir, I hereby request that I am Manu Dogra son of Jagjeet Dogra, am a resident of LV Bros Khanowan Road Near Railway Crossing Gurdaspur and request as follows: 1) That I am a resident of the said address and am a peace loving and law abiding person and partner/shareholder in LV Bros Kahnuval Road Near Railway Crossing Gurdaspur. 2) That our firm has been working as a sales promoter with Sahil Jain (Vardhman Enterprises) for the last 6-7 years. 3) That Tung Builder Private

Limited Company whose directors are both guilty & the above accused work in construction and they used to buy iron rods (sariya) from our firm on cash credit basis for about last 10-12 years and since they started buying iron rods from us for some time they behaved perfectly with us and continued to pay us our due amount so that we believed them and they continued to purchase iron rods from us and we have to collect the total outstanding amount of Rs.3,97,60,141/- from them. When we started working with the accused, our meeting in this regard was held at the house of Sahil Jain who is the owner of Vardaman Enterprises at Patiala and we started giving iron rods to the accused due to which we had to collect the said amount from the said accused and we kept asking them for our money again and again. 4) That thereafter the above-mentioned signed a compromise with us and the above-mentioned accused at the house of Sahil Jain, owner of Vardaman Enterprises, resident of Patiala, in Patiala, where Sahil Jain, owner of Vardaman Enterprises and partner of LV Bros, Manu Dogra and Amit Dogra son of Mi. Jagjit Dangra resident of Gurdaspur and the accused were present signed a compromise with me on 17/11/2022 and the compromise was written in the presence of the above persons. On which accused Lakhwinder Singh signed on behalf of Tung Builders. 5) That according to this compromise the accused had given us cheques but the cheques given by the said accused also bounced and even after that I have been continuously asking the said accused for my money but the said accused are not giving our money and they have also denied the said compromise. 6) That the said accused had entered into a false agreement with us by mutually agreeing with each other with the intention of deceiving us and the said accused did not fulfill their promise and neither did the said accused has paid us our due amount. 7) That now when I demand my said amount from the said accused, the said accused threaten me and threaten to kill me and say that if I ask for my money from them, they will implicate me in false cases. 8) That I and my family are at risk from the said culprits who may cause us any loss of life or property at any time and if any loss of life or property occurs in the future, the said culprits should be held

responsible. 9) That the said accused have cheated and defrauded us and have caused huge financial loss to us. Therefore, it is requested to file a case against the said accused and take appropriate legal action and my due payment be taken from the said accused and my and my family's lives and property should be protected and justice should be given to us. With thanks, Yours sincerely Manu Dogra..”

(3). Learned senior counsel for the petitioner submits that neither the petitioner nor the complainant are the residents of Patiala and the entire transactions, if any, have taken place within the jurisdiction of Gurdaspur. He urged that looking at the compromise which has been signed and registered at Mandi Gobindgarh, Fatehgarh Sahib, the dispute, if any, is with regard to dishonor of cheque whereas the present FIR has been lodged in order to give it a criminal cloak to a civil dispute, if at all. Reliance has been placed on **Vesa Holdings P.Ltd. & Anr vs. State of Kerala & Ors. (2015) 8 SCC 293** where the Supreme court held that the criminal proceedings should not be encouraged when it is found to be mala fide or otherwise and abuse of process of the Court.

(4). It is further averred that in the FIR, the complainant has smartly concealed the factum of pendency of complaint under the Negotiable Instruments Act, 1881 instituted on 26.05.2023 i.e. 3 months prior to the registration of the present FIR which is nothing but a crude attempt by the complainant as a weapon to harass the petitioners.

(5). On the other hand, learned State counsel opposed the prayer of the petitioners for grant of anticipatory bail on the ground that the petitioners are involved in duping the complainant and have incurred huge loss to him

and as such the matter requires to be thoroughly investigated for which the custody of the petitioners is necessitated.

(6). Heard learned counsel for the parties.

(7). It is an admitted position of fact that the petitioners had been purchasing iron bars from the complainant’s firm, namely, LV Bros., Gurdaspur and Rs.3,97,60,141/- is outstanding, which is to be paid by the petitioners to the complainant but they have not paid the said amount to complainant despite repeated requests. So much so, the petitioners even entered into a compromise with the complainant but the compromise was not adhered to inasmuch as the cheques issued by the petitioners were also dishonoured by the Bank.

(8). There is no material available with the petitioners to show their bona fide to contradict the indictment as prima facie, from the contents of the FIR, it cannot be said that the petitioners were not found to be involved in criminal breach of trust by not complying their part of the compromise and as such, their intention to cheat and dupe the complainant from the very inception thus also cannot be ruled out. But for that purpose, the petitioner’s custodial interrogation is required to proceed the trial in a fair manner undoubtedly.

(9). Therefore, no ground for grant of anticipatory bail to the petitioner is made out.

(10). Dismissed.

17.07.2024
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes/No
Yes/No