

2024:PHHC:117667



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

CRM-M-36106-2024
Date of Decision : 09.09.2024

SUDHIR GOEL

.....Petitioner(s)

VERSUS

STATE OF PUNJAB

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Lavanya Gupta, Advocate,
for the petitioner(s).

Mr. Sahil R. Bakshi, AAG, Punjab.

Mr. Abnash Singh, Advocate,
for the complainant.

KULDEEP TIWARI, J.(Oral)

1. On 30.07.2024, this Court had passed the hereinafter
extracted order, upon the instant petition:-

“1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner seeks the concession of anticipatory bail, in case FIR No.74 dated 15.05.2024, under Sections 406/420/506/120-B of the IPC, registered at P.S. Haibowal, District Ludhiana.
2. The prosecution agency has been set into motion on a statement made by one Ridhi Sharma, proprietor of Derrick International, wherein she alleged that they had placed an order of 45 rolls of cloth from M/s Makhan Knit Fab and gave Rs.50,000/- in advance qua the said order and she paid the remaining amount of Rs.1,92,740/- on 27.01.2023. The accused persons although sent the raw material but the same was defective and the defect was duly informed to the petitioner (proprietor of accused firm), who then promised to send proper stock to the complainant and further asked the complainant to return the defective material. Accordingly, the defective material was returned, however, despite that, neither the money has been returned, nor the raw-material has been made available to the complainant till date.

3. The learned counsel for the petitioner inter alia submits that it is purely a case of business transaction, which has been given the colour of a criminal offence.

4. At this stage, Mr. Abnash Singh, Advocate, records his appearance on behalf of the complainant, under a validly executed Vakalatnama, instituted before this Court today. He opposes the grant of anticipatory bail to the petitioner and submits that the petitioner may be directed to deposit the entire disputed amount with the learned trial Court concerned, subject to the outcome of the trial.

5. The submission made by the learned counsel for the complainant is rejected, inasmuch as, criminal proceedings cannot be used as a tool to recover sums of money involved in a business transaction.

6. Notice of motion for 09.09.2024.

7. Mr. Pardeep Bajaj, D.A.G., Punjab, waives service of notice on behalf of the respondent.

8. 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. Today, the learned State counsel has, on instructions imparted to him by the official concerned, stated that pursuant to the making of the hereinabove extracted order, the petitioner(s) has joined investigation and has fully co-operated, however, the material which is under dispute could not be got recovered by him.

3. This Court has already examined the issue. *Prima facie* it is a case arising out of a business transaction, therefore, merely because of this, the recovery could not be effected, the interim relief granted by this Court vide order (*supra*), needs no interference by this Court.

4. In view of the above, the hereinabove extracted interim order dated 30.07.2024, is hereby made **absolute**, subject to the hereinafter extracted conditions:-

- “(i) the petitioner(s) shall not commit an offence similar to the present offence;
- (ii) the petitioner(s) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- (iii) the petitioner(s) shall make himself/herself available for interrogation by a police officer as and when required.”

5. This order should not be treated as “blanket” order. It will not be read granting petitioner(s) 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.

6. Needless to say that anything observed hereinabove shall not be construed to be an opinion on the merits of the case.

September 09, 2024

dharamvir

(KULDEEP TIWARI)
JUDGE

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