



CRM-M-54532-2023 (O&M)

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

(204)

CRM-M-54532-2023 (O&M)

Date of Decision : 12.11.2024

Sushil Sharma

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vijay Pal, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

Mr. Mandeep Singh Khillan, Advocate
for the complainant.

KULDEEP TIWARI, J.(Oral)

1. Through the instant petition, filed under Section 438 Cr.P.C., the petitioner prays for grant of anticipatory bail in case FIR No.955 dated 16.10.2023 (Annexure P-1), under Sections 406 and 420 of the IPC, 1860, registered at Police Station Samalkha, District Panipat, Haryana.
2. Coordinate Bench of this Court, by drawing an order on dated 07.11.2023, granted the interim anticipatory bail to the petitioner, and directed the petitioner to join the investigation and fully cooperate with the investigation process. On the subsequent date of hearing, i.e. on dated 30.04.2024, after addressing the arguments, when this Court was not inclined to grant the asked for relief, learned counsel for the petitioner submits that the petitioner is ready and willing to settle the dispute with the complainant party,



as it is purely a monetary dispute. Upon extending no objection by the learned counsel for the complainant, and with the mutual consent of learned counsel for the parties concerned, the matter was sent to the Mediation and Conciliation Centre of this Court. However, that exercise did not yield any fruit.

3. Again, on dated 25.09.2024, learned counsel for the petitioner after having positive instructions from his client, has made a specific statement to the effect that he is ready to return the entire disputed amount, and he further made a request for an adjournment, to enable him to file an affidavit disclosing the mode and the schedule for returning the amount. The relevant extract of the order reads as under:

“Learned counsel for the petitioner after having positive instructions from his client submits that the petitioner is ready and willing to return the entire disputed amount. He further submits that on the next date of hearing, he will file an affidavit disclosing the mode and the schedule for the return of the amount.”

4. On the adjourned date, the petitioner instead of adhering to the undertaking given to this Court, opted not to file any affidavit for making compliance to his earlier undertaking, and rather, made another request for enabling him to file an affidavit to make compliance of the order (supra), within the next 07 days. He also made another statement that he is willing to pay Rs.20,00,000/- by 10.11.2024, and further, the amount of Rs.39,60,000/-, on or before 30.12.2024. He also made a request that he may be permitted to collect the entire goods, which were supplied to the complainant, which were alleged to be of inferior quality, enabling him to further utilise the same for his business.



5. Finding the above submissions *bona fide*, this Court adjourned the matter for 21.10.2024, and the interim anticipatory bail granted by this Court, was ordered to be continued till the next date of hearing only.

6. In deference to the directions, issued by this Court, on dated 03.10.2024, the petitioner filed an affidavit sworn on dated 18.10.2024. The affidavit (*supra*), voiced about the schedule in which the petitioner undertakes to make the payment to the complainant. The relevant extract is read as under:-

- i) The deponent shall pay sum of Rs.20 lacs on or before 10.11.2024 to the complainant-Sumit Rathi;*
- ii) After making payment of first instalment of Rs.20 lacs on or before 10.11.2024, the complainant shall handover the material lying in the premises under the possession of the complainant, detail of which is as under:-*
 - a) Two pallets of Solar Panel*
 - b) 120 KV Structure/stand*
 - c) 5 Earthings*
- iii) That the complainant shall have no objection of the above material which will be taken by the deponent from the premises of the complainant;*
- iv) That the deponent shall pay another sum of Rs.39,60,000/- by 30.12.2024.”*

7. Perusal of the above affidavit makes revelation that the petitioner will clear the entire payment of Rs.59,60,000/- to the complainant, on or before 30.12.2024. However, he will do so on the following two conditions :-

- (i) that the complainant shall return the entire articles, as mentioned in the affidavit (*supra*), belonging to the petitioner;*



(ii) the complainant shall also extend no objection to the quashing of the FIR, on the basis of compromise, upon receipt of full and final payment of the disputed amount.

8. Learned counsel for the complainant has agreed to the terms and conditions (supra), as posed by the petitioner. Thereafter, the matter was adjourned for today, for making compliance of the undertaking, given by the petitioner, before this Court. Further, a direction was given to the Investigating Officer, to visit the complainant's premises and prepare an inventory with regard to the articles supplied by the petitioner, and thereupon, file an affidavit in this regard.

9. Today, learned State counsel has filed a supplementary status report dated 06.11.2024, by way of an affidavit sworn by Mr. Rajbir Singh, HPS, Deputy Superintendent of Police, City Panipat, on behalf of the respondent-State of Haryana, in the Court. The same is taken on the record. Copy thereof, has been supplied to the counsel opposite.

10. Short reply (supra) makes reversion that the compliance of the directions, as issued by this Court has been made, and due inventory has been made. However, it is notified by learned State counsel that the petitioner did not adhere to the undertaking, and failed to make payment, in accordance with the schedule given to this Court.

11. Today, Mr. Vijay Pal, Advocate has caused appearance on behalf of the petitioner, and has filed his *vakalatnama* after taking no objection from the previous counsel and comes up with the new proposal that the petitioner owns a plot, and wants to give it so that he can discharge his liability.

12. The proposal, as proposed by the learned counsel for the petitioner, seems to be yet another ploy, to delay the adjudication of the



instant petition, as the petitioner is enjoying the interim relief of anticipatory bail, granted by this Court.

13. From the facts and circumstances, as discussed above, this Court can safely conclude that the petitioner, has in fact, woven a web of false assurances before this Court, just to enjoy the interim bail granted by this Court. It seems that the petitioner has neither any intention to return the disputed amount since beginning, nor to settle the matter with the complainant. Even, the undertaking given by the petitioner, by way of an affidavit, to this Court, has not been adhered to. It is informed by the learned State counsel, that the petitioner is a habitual offender, and he is involved in two other cases of similar nature. Therefore, it seems that the petitioner know how to play with the legal proceedings.

14. The submissions, as made by the learned counsel for the petitioner that this is purely a civil dispute, which is camouflaged as a criminal case does not hold any merit, which is reflected from the conduct of the petitioner that he played with number of other persons, by supplying sub standard goods. Three other FIRs have already been registered against him.

15. In view of the conduct of the petitioner and the manner in which he flouted the undertaking given before this Court, this Court is of the view that the petitioner did not approach the Court with clean hands, and therefore, he does not deserve to the extraordinary relief of pre arrest bail. Accordingly, the instant petition is **dismissed**.

16. At this stage, when this Court was going to impose exemplary costs upon the petitioner, learned counsel for the petitioner submits that the petitioner is ready and willing to surrender before the investigating officer concerned.

17. In view of the assurance given by the learned counsel for the petitioner, this Court opted not to impose any exemplary costs, upon the petitioner.
18. Pending miscellaneous applications, if any, stands disposed of accordingly.

(KULDEEP TIWARI)
JUDGE

November 12, 2024
Manpreet

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