

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

Cr. Misc. M 44503 of 2015 (O&M)
Date of decision:- 25.2.2016

Tarsem Kumar and anr

Petitioners

vs.

State of Haryana

Respondent

Present: Ms. RK Thind, Advocate.
Mr. CS Bakshi, Addl.A.G. Hry
Mr. Munish Bansal, Advocate.

M.M.S.BEDI,J.

Misc. application is allowed. Documents Annexures P-3 to P-5 are permitted to be taken on record.

The petitioners seek the concession of pre-arrest bail in a case, which has been registered on the basis of the complaint filed by Deepika Garg u/s 156(3) Cr.P.C. alleging that the petitioners have fabricated a document, which is in the shape of an affidavit/ sale deed, having stamp of M/S Ajay Brick Kiln , wherein Deepika Garg is alleged to have transferred her rights in the brick kiln to the extent of 30% at one stage and the remaining 70% at later stage to Harnek Singh.

Counsel for the complainant has intervened to oppose the petition for pre-arrest bail contending that the petitioners have claimed themselves to be the owners of the brick kiln and tried to enforce their rights on the basis of the said document by filing a suit for injunction against her and others. A copy of the said document has been produced before the civil court and the original has been taken in possession by the investigating agency.

After hearing learned counsel for the parties and going through

the record ,it appears to be a case where the petitioners have sought to enforce their right on the basis of a document, which is subject matter of a civil court and the authenticity of the same is to be determined by the court. Section 195(1)(b)(ii) Cr.P.C. prima facie prohibits any court to take cognizance of an offence committed in respect of a document produced or given in evidence in proceedings in court. The admissibility of the document, the transfer of the rights on the basis of the said document and existence of the rights on the basis of the said documents, will certainly be a debatable issue during the course of proceedings before the court.

On asking of the court, it has been informed that the brick kiln in dispute is not being run by the petitioners and the petitioners are also not in possession of the property of the brick kiln. The petitioners have joined the investigation. The alleged forged document used to enforce the legal rights, has already been taken into possession by the police.

Accordingly, the petition is allowed and it is ordered that in case of arrest of the petitioners, they will be released on bail to the satisfaction of the arresting officer subject to the condition that they will join the investigation as and when required by the police and will not tamper with evidence or hamper the investigation.

Nothing said in this order will effect the rights of the parties in any other litigation.

February 25 ,2016
TSM

(M.M.S.BEDI)
JUDGE