

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36755-2016

Date of decision-27.01.2017

Sanjeev Kumar Jain

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Tarunveer Vashist, Advocate, for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
assisted by SI Suresh Kumar.

Mr. Ashok Bhardwaj, Advocate, for the complainant.

JITENDRA CHAUHAN, J. (Oral)

By filing the present petition under Section 438 of the Code of Criminal Procedure, the petitioner has sought anticipatory bail in FIR No.125 dated 04.05.2016, registered under Sections 447, 365, 323, 506 and 148 read with Section 149 at Police Station Zirakpur, District S.A.S. Nagar (Mohali).

On 13.10.2016, this Court had passed the following order:-

“Contends that civil suit at the instance of the complainant seeking declaration and ad interim injunction challenging the sale deed in favour of the petitioner is pending since 2010 and next date is 11.11.2016. In fact, the petitioner's brother in law was being unnecessarily harassed and he had committed suicide, leaving behind suicide note, Annexure P-3. The matter is purely of civil nature and if there is any violation of the order, remedy lies elsewhere but not the FIR.

Notice of motion.

Mr. Ashok Bhardwaj, Advocate accepts notice on behalf of the complainant and filed his 'Vakalatnama' in

the Court which is taken on record. He submits that son of Sadhu Singh had lodged an FIR. Though the cancellation report has been submitted but the same is pending adjudication before the Competent Court and in the year 2009 the petitioner had executed a Power of Attorney in favour of third party. On 17.10.2015 he attempted to take forcible possession despite there being status quo order.

I am prima facie of the view that the matter is purely of civil nature. If at all, there is violation, remedy lies elsewhere and not in registration of FIR.

As regards, the alleged offence under Section 365 IPC, the police will investigate the matter. Prima facie, in my view, custodian interrogation would not be required.

List on 15.12.2016.

In the meanwhile, in the event of arrest of the petitioner, he shall be released on bail to the satisfaction of the Arresting Officer, subject to the conditions contained in Section 438 (2) Cr.P.C. He will join the investigation as and when required.”

It is contended that in pursuance of the order dated 13.10.2016, the petitioner has joined the investigation. Reply on behalf of the State has been filed in Court, which is taken on record. The learned State counsel, submits that the petitioner has joined the investigation and he is not required for custodial interrogation.

In view of the above, without expressing any opinion on the merits of the case, the interim bail granted by this Court vide order dated 13.10.2016, is made absolute, subject to furnishing bail bonds/surety bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, concerned.

The petition stands allowed.

(JITENDRA CHAUHAN)
JUDGE

January 27, 2017
adhikari

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