

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

CRM-M-2909-2018

Date of decision:-25.5.2018

Randhir and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Jagjeet Beniwal, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioners Randhir, Sajjan, Tashbir, all of them being accused in FIR No.776 dated 29.12.2017, under Sections 447, 506 read with Section 34 IPC, registered at Police Station Sadar, Bhiwani.

Briefly stated, the facts of the case as per prosecution version are that the FIR in this case was registered on the basis of written complaint submitted by complainant Jaipal son of Shish Pal addressed to

SHO, Police Station Sadar, Bhiwani in which he sought taking of action against Randhir son of Fateh Singh, Sajjan Singh son of Randhir Singh and Tashbir Singh son of Randhir Singh, residents of village Puranpura, Tehsil and District Bhiwani. Inter alia, in the complaint, the complainant alleged that he had sown mustard crop in 1/2 of the share of the land total measuring 14 Kanals 9 Marlas situated at village Kaunt, Tehsil and District Bhiwani; that on 7.12.2017 at night, the persons named in the complaint had gone to his fields with tractor and destroyed his mustard crop; that when confronted with such situation later on, all three of them admitted their mistake stating that they would pay compensation of crop within 15-20 days but they did not do so, rather later on they threatened the complainant.

After registration of the FIR, the investigation in the case started. Apprehending their arrest in this case, the petitioners had approached the Court of Sessions seeking grant of pre-arrest bail but their such applications were dismissed by the Court of learned Additional Sessions Judge, Bhiwani vide order dated 12.1.2018, as such they have knocked at the door of this Court asking for similar relief.

Notice of the petition was given to the respondent – State, which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioners has argued that wife of petitioner No.1, namely, Smt.Prem had purchased the land measuring 3 Kanals 15 Marlas i.e. 75/4157 share of total land of 207 Kanals 17 Marlas

situated at village Kaunt, Tehsil and District Bhiwani vide sale deed No.574 dated 21.4.2017 for a sum of Rs.7,86,000/- and possession of the land was delivered by the seller to wife of petitioner No.1, who has been in cultivating possession of that land; that the mutation has also been sanctioned in her favour; that the complainant party had also purchased some share out of that land from the same owner; that the complainant wanted to purchase the land, which had been sold by owner of the land to wife of petitioner No.1, as such, he has been nursing a grudge against them and had lodged a false FIR; that the land is still joint; that the wife of petitioner No.1 is co-sharer of the complainant party; that the remedy with the complainant party is to seek partition, rather than lodge FIR; that petitioner No.1 is stated to be an old man of 75 years and petitioners No.2 and 3 being his sons. He has further contended that the petitioners have already joined the investigation and no recovery is to be effected from them, therefore concession of pre-arrest bail be granted to such petitioners.

Whereas learned State counsel is opposing the request stating that though the petitioners have joined the investigation but recovery of tractor used for ploughing the crop of complainant is yet to be effected.

After hearing the rival contentions of learned counsel for the parties, I find that the dispute between the parties is basically of civil nature, though an attempt is being made to give it colour of a criminal offence. The petitioners have already joined the investigation. In my considered view, their custodial interrogation is not necessary considering the facts and circumstances of the case and the petitioners deserve to be

granted concession of pre arrest bail.

Therefore, the interim bail granted to the petitioners on 24.1.2018 is made absolute, subject to their fulfilling conditions under Section 438(2) Cr.P.C.

The petition stands allowed accordingly.

25.5.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No