

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13363 OF 2019

DATE OF DECISION: MAY 09, 2019

ASHOK KUMAR AND ANOTHER ...PETITIONERS

VERSUS

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

**PRESENT: MR.AMANINDER SINGH SEKHON, ADVOCATE
FOR THE PETITIONER.**

MR. KIRAT SINGH SIDHU, DAG, PUNJAB.

MR. ACHIN GUPTA, ADVOCATE FOR THE COMPLAINANT.

MANOJ BAJAJ, J.

This petition has been filed by the petitioners under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.52 dated 2.3.2019, registered under Sections 420/406/506 IPC, Police Station City/Kotwali Faridakot, District Faridkot. The petitioners have apprehended their arrest at the hands of the Police.

Learned counsel for the petitioners has invited the attention of the Court to the order dated 25.3.2019, whereby while issuing notice of motion to the respondent-State, the interim protection was extended to the petitioners. The said order reads as under:-

“Learned counsel for the petitioners contends that admittedly there were business dealings since 2014-2015 between the complainant and accused who are partners of M/S Superfine Rice Mills. According to him, the alleged amount which is due

for payment by the accused is of the year 2016 and the FIR has been registered in the year 2019 with the allegations that the complainant is having a threat from the accused persons. Learned counsel for the petitioners further contends that the dispute is purely of civil nature.

Notice of motion for 06.05.2019.

Meanwhile, the petitioners shall join the investigation and would come present as and when called for and in the event of arrest, the petitioners shall be admitted to interim bail on their furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioners shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned counsel for the petitioners has contended that in deference to the said order, the petitioners submitted themselves before the Police and joined the investigation. According to him, the petitioners co-operated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer. Learned counsel for the petitioners further contends that apart from the allegations of cheating, the allegations regarding apprehension of danger to the complainant are also levelled. It is further pointed out that the dispute between the parties is already pending before the civil Court by way of a civil suit.

Learned State counsel, who is assisted by ASI Harbans Singh does not dispute this fact that the petitioners have joined the investigation. Learned State counsel further states that the petitioners are required for

custodial interrogation for the time being as the recovery of the alleged amount is yet to be made.

Learned counsel for the complainant has also opposed the bail application on the ground that the alleged amount is yet to be recovered from the petitioners. Learned counsel for the complainant has produced account statements to contend that amount is due towards the accused. At the same time, it is not disputed that business dealings between the parties commenced w.e.f. 2013. Pendency of Civil Suit is also admitted.

After hearing learned counsel for the parties, this Court finds that the business dealing between the parties is quite old as mentioned in the FIR, i.e. from 2014-2015. In the given facts and circumstances of the case, there does not appear any valid justification for custodial interrogation of the petitioners, much less for recovery of the alleged due amount, as the proceedings are penal in nature and for punishment of the alleged offence committed by the petitioners. At the same time, it cannot be gathered from the FIR or the statement of accounts produced by learned counsel for the complainant that the amount due relates to which transaction or the period.

Resultantly, without meaning any expression of opinion on the merits of the case, the order dated 25.3.2019 is made absolute. However, it is made clear that this order shall remain operative till the filing of the final report under Section 173(2) Cr.P.C.

The petition stands allowed.

May 09, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No