

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-14950 of 2019

DATE OF DECISION: MAY 09, 2019

KRISHAN KUMAR AND ANOTHER ...PETITIONERS

VERSUS

STATE OF PUNJAB ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR.AMANINDER SINGH SEKHON, ADVOCATE
FOR THE PETITIONERS.

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 1.4.2019, 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 relies upon the order dated 25.03.2019 passed in respect of the co-accused, who is partner of M/S Superfine Rice Mills.

Notice of motion for 06.05.2019.

To be heard along with CRM-M-13363-2019.

In the meanwhile, petitioners shall join the investigation and would come present as and when called for and in the event of arrest, they shall be admitted to interim bail on their furnishing personal and surety bonds to the satisfaction of the 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 1.4.2019 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