

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

**CRM-M No.28731 of 2019 (O&M)
Date of Decision: 16.07.2019**

Nand Kishore @ Lala

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Himanshu Rao, Advocate for the petitioner.

Mr. Arun Beniwal, Deputy Advocate General, Haryana
for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 438 of the Code of Criminal Procedure (*for short 'Cr.P.C.'*) for grant of pre-arrest bail to the petitioner in case FIR No.164 dated 17.06.2019 (**P-1**), under Sections 427, 506, 34 of the Indian Penal Code, 1860, registered at Police Station Sector 37, District Gurugram.

As per the allegations in the FIR, petitioner, along with his co-accused, has demolished the wall of complainant-Sonu Raghav, measuring 60-70 feet by using a JCB Machine while taking the law into his own hands.

Contentends that petitioner has been falsely implicated in the present case and nothing is to be recovered from him.

On the other hand, learned State Counsel, on instructions from the police official present in the Court, opposed the bail application and prayed for dismissal of the same while submitting that JCB Machine, used in the commission of crime, is yet to be recovered.

Heard both sides and perused the paper-book along with police file.

It transpires that on 16.06.2019 at about 10:25 PM, petitioner-Nand Kishore @ Lala; Dinesh @ Bhola; Jagpal @ Jangu and one Manish, while using JCB Machine bearing registration No.HR-29-AT-4430, have demolished the 60-70 feet wall of the house of complainant and on asking of the Court whether petitioner is ready to restore the demolished wall of the complainant or to compensate him on some reasonable terms, learned Counsel for the petitioner flatly refused by saying that a civil suit (P-2) is already pending between the parties.

This Court has perused the memo of parties of civil suit (P-2), but neither the petitioner; nor the complainant is/are party to the said suit, therefore, that is of no relevance and moreover, this is a suit for permanent injunction and no interim order has been brought to the notice of the Court.

Although, despite the fact that custodial interrogation of the petitioner would be required for recovery of JCB Machine, this Court was inclined to grant the pre-arrest bail to him, but, keeping in view the unreasonable stand adopted on behalf of the petitioner, there is no option except to dismiss the present petition at this stage.

Ordered accordingly.

The above observations may not be construed as an expression of opinion on the merits of the case.

July 16, 2019
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes