

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42586-2019
Date of decision: 15.10.2019

Shiv Kumar and others

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Anil Chawla, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Gazi Mohd. Umair, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.032 dated 21.04.2018 under Section 406 IPC, registered at Police Station Sadar Ahmedgarh, District Sangrur.

Learned counsel for the petitioners submits that as per allegations in the FIR, registered at the instance of complainant Harjinder Singh, it is stated that he is owner of a retail construction company and is also a contractor with telecom company, wherein he has to lay wires underneath the earth and for this purpose, he has employed labours. It is further stated in the FIR that accused

persons, after taking the amount, had failed to perform the work of laying the wires and in that process, machinery like HDD machine, truck, motorcycle, tractor and trolley etc. were taken by the accused persons and they have gone to UP. It is further submitted that in fact, as per agreement between the petitioners and complainant, the amount was entrusted to the petitioners and the work was to be executed at Allahabad and therefore, no offence under Section 406 IPC is made out, as it is primarily a civil dispute.

In reply, learned State counsel, on instructions from ASI Gorakh Nath and assisted by learned counsel for the complainant, has opposed the prayer for bail on the ground that the petitioners, on the pretext of performing the work of laying the underground wires, have cheated the complainant and in that process, they have taken Rs.2.00 lacs from the complainant along with the machinery, which is detailed in the FIR. It is further submitted that the petitioners, in order to avoid their liability towards the complainant, have registered an FIR No.103 dated 06.11.2017 against the complainant in Police Station Dadon, District Aligarh under Sections 323, 504, 506 IPC, which shows intention of the petitioners that they never wanted to perform their part of the contract and since the beginning, they had the intention to cheat the complainant.

After hearing learned counsel for the parties, finding that there are serious allegations against the petitioners, who have not only taken the cash from the complainant, but have also taken the machinery under the garb of an agreement to lay the underground wires and rather, registered an FIR against the complainant to deter him from recovering the amount, I find that custodial interrogation of the petitioners is required.

In view of the above, finding no ground to grant anticipatory bail to the petitioners, present petition is dismissed.

15.10.2019

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**[ARVIND SINGH SANGWAN]
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No