

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

CRM-M No.13122 of 2020
Date of decision: 28th May, 2020

Chander Mohan and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Deepak Goyal, Advocate for the petitioners.

FATEH DEEP SINGH, J. (ORAL)

The matter has been taken up through video-conferencing on account of lockdown due to outbreak of pandemic COVID-19.

Mr. H.S. Grewal, Addl. Advocate General, Punjab puts in appearance on behalf of the State and Mr. Salil Bali, Advocate on behalf of the complainant to assist the State, on their own.

Petitioners Chander Mohan and Varinder Mohan, both brothers, have come up in this first anticipatory bail application under Section 438 Cr.P.C. in case bearing FIR No.96 dated 07.04.2020 under Sections 420, 465, 466, 467, 468, 471, 120-B IPC pertaining to Police Station City Fazilka, District Fazilka got registered on the statement of complainant Krishan Kumar Sharma.

The precise allegations are that the complainant alleges that the accused petitioners entered into an agreement to sell in respect of the

immovable property and agreed to sell the same to the complainant, in lieu of which they took ₹ 20.00 lacs and under this settlement the sale deed was to be got registered on or before 15.05.2019 and which was subsequently extended to 30.11.2019. It is subsequent thereto, a dispute arose between the parties leading to registration of the present case.

Learned counsel for the petitioners Mr. Deepak Goyal, Advocate inter alia contends that the petitioners have earlier lodged FIR No.123 dated 21.08.2019 under Sections 420, 120-B IPC against the present complainant and belatedly and subsequently the present FIR has come about through fabrication and deceit, harbouring on the claim that it is a pure civil dispute.

Learned State counsel Mr. H.S. Grewal, Addl. Advocate General, Punjab assisted by Mr. Salil Bali, Advocate representing the complainant though does not displace the facts but stoutly oppose grant of bail to the petitioners on the grounds that the conduct of the petitioners in managing and fabricating the affidavit of the complainant (Annexure P4) speaks volume about their malice and criminal intent and therefore, custodial interrogation is very much essential.

Going through the submissions of the two sides, be that as it may, what is apparent that the parties are litigating over an agreement to sell and have sought to file criminal cases as claim and counter-claim against each other. Being on the face of it a civil transaction and that nothing is to be recovered, sending the petitioners in custody would be a

travesty of justice and their joining the investigations would suffice the purpose. Accordingly, the petitioners are directed to appear before the investigating officer within a period of 15 days from the date of receipt of certified copy of this order and on their doing so they shall be released on bail to the satisfaction of the arresting/investigating officer till submission of report under Section 173 Cr.P.C. (challan). The petitioners shall continue to join investigation and shall furnish an undertaking that they shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, they will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

May 28, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No