

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24263 of 2019

DATE OF DECISION: JANUARY 28, 2020

VIJAY KUMAR

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. GAUTAM DUTT, ADVOCATE FOR THE PETITIONER.

MS. MONIKA JALOT, DAG, PUNJAB.

MR. VIVEK CHAUHAN, ADVOCATE FOR THE COMPLAINANT.

MANOJ BAJAJ, J.(ORAL)

Petitioner Vijay Kumar has filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.179 dated 26.10.2016, under Sections 177, 193, 196, 465, 467, 468, 471, 420, 120-B IPC, Police Station Sadar Ludhiana, District Ludhiana (City).

Learned counsel for the petitioner contends that the petitioner is at an advanced age and the concession of anticipatory bail was granted by the Addl. Sessions Judge, Ludhiana vide his detailed order dated 21.12.2018. He further submits that the dispute pertains to the alleged Resolution dated 13.9.2002 and agreement to sell dated 20.9.2002, allegedly executed between the petitioner and the complainant. It is further contended that a civil suit between the parties is also pending which has been filed by the son of the petitioner against the complainant. He submits that the petitioner has already joined the investigation, not only pursuant to the order of the Addl. Sessions Judge, Ludhiana, but also pursuant to the interim concession by this Court as well.

On the other hand, learned counsel for the complainant has

opposed the bail on the ground that the documents which are in possession of the petitioner are to be recovered and therefore, his custodial interrogation is necessary.

Similar is the stand of learned State counsel. However, during the course of hearing, it is not disputed that the alleged Resolution dated 13.9.2002 is also a part of the civil suit and the alleged agreement to sell dated 20.9.2002 is appended as Annexure P-3.

Concededly, the civil suit between the parties is pending and the document which is to be recovered is already appended with the plaint filed by the son of the petitioner. Even otherwise, the Addl. Sessions Judge, Ludhiana vide his order dated 21.12.2018 has considered the background of the case and the role of the petitioner while extending him the concession of anticipatory bail. The relevant portion of the same is reproduced below:-

“7. Further Dinesh Kumar and Amit Kumr both sons of the applicant who are director of M/s Damni Resort and Builders Pvt. Ltd., have already been arrested in this case on 16.8.2018. The signature of Dinesh Kumar one of the son of applicant is appearing on the agreement to sell dated 20.9.2002 and civil suit has been filed by the another son of the applicant Amit Kumar. Moreover, on the complaint of complainant during inquiry by police before registration of FIR applicant appeared in the inquiry and claimed his plea as claimed in the civil suit filed by son of the applicant. Applicant is old aged person and he is one of the director of the M/s Damni Resort and Builder Pvt. Ltd. There are no direct and clear allegations specifically against the applicant in the FIR by the complainant qua the fact that applicant has forged the signature of Jaswant Singh on the alleged agreement to sell dated 20.9.2002 and consent letter dated 13.9.2002. The role of other non-applicants are

specifically alleged as their names are reflecting in the documents but on the other hand the name of this applicant is not appearing or reflecting on any of the documents. Applicant is ready to join the investigation by cooperating the police in all manner. The custodial interrogation by the police for effecting any kind of recovery for this applicant is not required. Hence in these circumstances, in the opinion of this Court it is fit case to grant interim anticipatory bail.

8. *Hence keeping in view the above reasons as well as role of the applicant, this court is of the opinion that it is a fit case in which relief under Section 438 Cr.P.C. can be granted to the applicant by exercising the powers under Section 438 Cr.P.C. by this court. Accordingly, application of the applicant is allowed. Investigating officer/Arresting Officer/SHO are directed to release the applicant on bail in the event of his arrest in the present case to his satisfaction subject to the provision under Section 438(2) Cr.P.C. The applicant/accused is directed to join the investigation on or before 4.1.2019. To come upon 4.1.2019 for compliance report and consideration on bail application on which date record be produced.”*

However, the trial Court vide its order dated 18.4.2019 proceeded to dismiss the anticipatory bail with the observation that the custodial interrogation of the petitioner is required.

Considering the above, this Court is of the opinion that in the given facts, the custodial interrogation of the petitioner may not be necessary. Accordingly, the petition is allowed and the interim bail granted by this Court vide order dated 27.5.2019 is made absolute.

January 28, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

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