

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

CRM-M No.26873 of 2020

Date of decision : September 09, 2020

Amarjit Singh and another

..... Petitioners

Versus

State of Punjab

..... Respondent

(IN VIRTUAL COURT)

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Manish Kumar Singla, Advocate for the petitioners.

RAJBIR SEHRAWAT, J. (ORAL)

The present petition has been filed by the petitioners under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.160, dated 15.08.2020, under Sections 420 and 120-B IPC, registered at Police Station Sadar Ahmedgarh, District Sangrur.

It is submitted by the learned counsel for the petitioners that petitioner No.1 was the proprietor of the firm and petitioner No.2 is the son of petitioner No.1. It is further submitted that the case against the petitioners is totally frivolous. In fact, petitioner No.1 had taken supplies of the animal feed from the complainant. However, the said cattle feed was not found of good quality by the farmers. Therefore, the farmers, to whom petitioner No.1 had sold the said animal feed; did not make the payment to petitioner No.1. Since petitioner No.1 had not received the payment from the farmers, therefore, he was not liable to make any payment to the complainant. It is further submitted that petitioner No.2 is having no

concern either with the business of petitioner No.1 or with the supply of the animal feed by the complainant. His name has been involved in the case only as a pressure tactics. Otherwise also, petitioner No.1 has filed a civil suit praying for restraining the police from taking any action against him; because the matter pertains to a civil dispute. The complainant can recover the payment by filing a suit for recovery. Hence, the petitioners deserve the concession of anticipatory bail.

Notice of motion.

Mr. Ramdeep P. Singh, DAG, Punjab accepts notice on behalf of the respondent-State.

Learned counsel for the State, on instructions from ASI Harbax Singh, has submitted that the petitioner No.1 is a clever person. He has taken the supplies of material from the complainant and has embezzled the money received on account of sale of the said material. Petitioner No.1 has deliberately not made the payment to the complainant. The very fact that petitioner No.1 is not even denying having received the material from the complainant; and he has gone to the extent of filing a civil suit praying for restraining the police from proceeding against him for an offence under criminal law, shows the clever manipulations on the part of petitioner No.1, as well as; his intention to cheat the complainant right from the beginning. Since petitioner No.1 had intention to cheat the complainant right from beginning, therefore, he withheld the most of the payments which were required to be made by him to the complainant. However, learned counsel for the State has not disputed that there is no direct connection of petitioner No.2 with the business of petitioner No.1 as such.

In view of the above submissions, the present petition qua petitioner No.2 is allowed. Petitioner No.2 is granted concession of anticipatory bail. Therefore, it is directed that in case of his arrest, petitioner No.2 shall be released on bail by the Investigating Officer subject to his furnishing bail bonds/ surety bonds to the satisfaction of Investigating Officer. However, it is further directed that petitioner No.2 shall join the investigation as and when so required by the Investigating Officer. He shall also abide by the conditions stipulated in Section 438(2) Cr.P.C.

However, so far as petitioner No.1 is concerned, this court does not find any ex-facie innocence on the part of the petitioner No.1, vis-à-vis the allegations levelled against him. He has not even denied having received the material from the complainant. However, he has not made the payments qua most of the materials. It is not even the case of petitioner No.1 that the entire material was supplied by the complainant in one go. Therefore, the facts would remain; that on the one hand petitioner No.1 was continuously receiving material from the complainant; and on the other hand he was withholding the payments for most of the supplies made by the complainant. In view of this, the intention of petitioner No.1 to cheat the complainant right from the beginning cannot be ruled out. Still further, this Court also finds substance in the argument of learned State counsel that the very fact that petitioner No.1 has resorted to a clever methodology of filing a civil suit against the police for restraining them from taking any action against him, though such as a suit may not be maintainable, however, it shows that petitioner No.1 has a clever disposition; which he can use even to commit a crime. Therefore, the police will be required to make recovery of

material/record qua supply from petitioner No.1. Therefore, if petitioner No.1 is protected at this stage, that would hamper the free and fair investigation on the part of the police.

In view of the above, but without commenting anything more on merits of the case, the present petition qua petitioner No.1 is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

September 09, 2020

sarita

Whether speaking / reasoned

Yes

Whether Reportable:

No