

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

CRM-M No.31351 of 2019 (O&M)

Date of Decision:13.02.2020

Nihal Chand Jain

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Ajay Jain, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab
for the State.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 Cr.P.C. seeking grant of anticipatory bail in FIR No.64 dated 13.06.2019, under Sections 420, 406, 120-B IPC, Police Station City Jalalabad, District Fazilka.

Learned counsel for the petitioner has submitted that the present FIR is the outcome of a civil dispute between the parties, who had entered into an agreement for purchase of paddy. The firm of the petitioner is situated in Rajasthan. The petitioner was to purchase paddy locally from the complainant. He has further stated that the paddy, which is the subject matter of dispute, was purchased way back in the year 2014 and the complainant had only made part of the margin money. Thereafter, notices were also sent in this regard. He has further stated that the petitioner has

filed civil suit in Kota (Rajasthan) and the complainant has filed civil suit in Jalalabad. Learned counsel for the petitioner has further stated that the dispute between the parties pertains to civil liability and the matter is sub-judice before the civil Courts and, therefore, the present FIR is an abuse of the process of law.

Per contra, learned State counsel, on instructions from ASI Chander Shekhar, has stated that in the present case recovery of money is to be effected from the petitioner and, therefore, his custodial interrogation is required. He has, therefore, opposed the grant of anticipatory bail to the petitioner.

I have heard learned counsel for the parties and perused the records.

On 24.07.2019, notice of motion was issued in this case and the arrest of the petitioner was stayed till the next date of hearing. On 05.11.2019, it was directed that in the event of arrest of the petitioner, the Investigating Officer/Arresting Officer shall release the petitioner on ad-interim bail subject to his satisfaction and the petitioner shall also abide by the conditions as provided under Section 438(2) Cr.P.C.

In the present case, the dispute between the parties pertains to the breach of contract/conditions of contract, which ultimately resulted into the civil dispute, for which, admittedly civil suits have been filed by both the parties at Kota and Jalalabad, which are still pending. The factum of liability is yet to be ascertained by the civil Courts. Therefore, the contention of the learned State counsel that custodial interrogation of the petitioner is required, would not have any weight as the matter is yet to be

decided by the civil Courts.

Be that as it may, in the present case, learned State counsel, on instructions from ASI Chander Shekhar, has stated that the petitioner has joined the investigation but is not cooperating with the same. During the period of anticipatory bail, it is the duty of the petitioner to cooperate with the investigation process. In case, he does not cooperate with the investigation process, then necessary application can be filed by the State in this regard.

In view of the totality of circumstances, I deem it fit and proper to grant anticipatory bail to the petitioner in the present case. Therefore, the present petition is allowed and the order dated 05.11.2019 passed by this Court, is hereby made absolute.

(JASGURPREET SINGH PURI)
JUDGE

13.02.2020
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No