

CRM-M-22288-2021 (O&M)

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

**CRM-M-22288-2021 (O&M).
Decided on: December 10, 2021.**

Ruby Garg and others

.. Petitioners

VERSUS

State of Punjab and another

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Vaibhav Sehgal, Advocate, for
 Mr.Randeep Singh, Advocate,
 for the petitioners.**

Mr.Arun Kumar Kaundal, DAG, Punjab.

**Mr.G.S.Bhasin, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in FIR No.198 dated 6.12.2020, under Sections 420 and 406 IPC, registered at Police Station, Civil Lines, Bathinda.

As per the allegations contained in the FIR, a complaint

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was lodged by the complainant namely Vijay Kumar – respondent No.2 that the petitioners had taken an amount of Rs.14 + 16 lacs i.e. total Rs.30 lacs from the complainant for the purpose of sending his son abroad in the presence of Makhan Lal and since they have not fulfilled the the same, they have committed fraud upon the complainant and in this way the present FIR came to be lodged.

Learned counsel for the petitioners has submitted that that the entire FIR was, in fact, is based upon a concocted story and while referring to the background of the present case, he has drawn the attention of this Court to Annexure P-3 dated 1.10.20019 whereby in the year 2019, the complainant had filed a complaint before the police on the ground that the petitioners had executed an agreement of sale of property and had taken Rs.30 lacs and have given possession to him but did not execute the sale deed and therefore, action be taken against them. However, vide Annexure P-4, the Deputy Superintendent of Police, E.O. and Cyber Crime, Bathinda, conducted a detailed inquiry and found that no case was made out against the petitioners and the complaint was filed to record.

This inquiry report of the DSP is dated 18th March, 2020. The learned counsel submitted that being not satisfied with the aforesaid inquiry, the complainant has lodged the present FIR by making a new ground that the complainant was duped of Rs.30 lacs which is exactly the same amount which was the subject matter of the earlier complaint and nothing has come on the record to show as to why and with what motive the

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money was transferred and by what mode i.e. either by bank transfer or cash etc. and on the face of it, the allegations are vague in nature. Learned counsel submitted that even after lodging of the FIR, compromise was effected between the parties vide Annexure P-5 and in pursuance thereof, a quashing petition was also filed before this Court based upon compromise and notice of motion was issued vide Annexure P-6 on 9.3.2021 but thereafter, since the compromise was not honoured, quashing petition was also withdrawn. Learned counsel submitted that the present FIR was totally frivolous and even otherwise also, for the sake of arguments, in case any dispute had arisen between the parties, the same was *ex facie* civil in nature and the complainant – respondent No.2 instead of invoking any remedy before the Civil Courts has tried this tactic to force upon the petitioners to pay the money. He submitted that the present dispute is purely a financial dispute between the parties which has been given a criminal flavour by the police. He further submitted that even earlier also the brother of the complainant had filed a complaint on the basis of which false FIR was registered against the petitioners the details of which are mentioned in para 10 of the petition. The learned counsel has further submitted that in pursuance of the orders passed by this Court on 2.7.2021, the petitioners have already joined investigation and have fully cooperated in the investigation process and therefore, they may be considered for the grant of anticipatory bail.

On the other hand, learned State counsel, on instructions from ASI Jaswant Singh, has submitted that it is correct that petitioners in

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pursuance of the orders passed by this Court on 2.7.2021, have joined the investigation. He, however, has submitted that the petitioners have not cooperated with the investigation process. On the specific query put to the learned State counsel as to in what respect, the petitioners have not cooperated in the investigation process, he, on instructions, has submitted that recovery of amount is yet to be made.

Mr.G.S.Bhasin, Advocate, for the complainant – respondent No.2, has submitted that a fraud has been played upon the complainant – respondent No.2 and money is yet to be recovered from the petitioners and it was only due to the fault of the petitioners that even the compromise was not honoured and therefore, he has opposed the grant of anticipatory bail.

I have heard the learned counsel for the parties.

It is not in dispute that the petitioners in pursuance of the orders passed by this Court have joined the investigation. However, a stand has been taken up by the learned State counsel, on instructions from the officer concerned, that although the petitioners have joined investigation but they have not cooperated with the investigation process because the amount of money is yet to be recovered from the petitioners. It is settled law that recovery of an amount, where there is a financial dispute between two parties, cannot become a ground for denial of the anticipatory bail as the police is not supposed to be recovery agents. This Court does not wish to go into the merits of the case since the subject matter of the present petition pertains only to grant of anticipatory bail to the petitioners.

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In view of aforesaid circumstances, this Court is of the considered opinion that it is a fit case for the grant of anticipatory bail to the petitioners. Consequently, the present petition is allowed. Interim orders dated 4.6.2021 and 2.7.2021 are hereby made absolute.

December 10, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No