

**CRM-M-38835-2018(O&M) and
CRM-M-40351-2018(O&M)**

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

1. CRM-M-38835-2018(O&M)

Navneet Kumar Kamra

..... Petitioner

Versus

State of Punjab

..... Respondent

2. CRM-M-40351-2018(O&M)

Neeraj Arora

..... Petitioner

Versus

State of Punjab

..... Respondent

Date of decision :-2.7.2021

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Priyanshu Kamra, Advocate
for the petitioner (s) in both petitions.

Mr.J.S. Ghuman, DAG, Punjab.

Mr.Ramandeep Singh, Advocate
for the complainant.

H.S. MADAAN, J.

Cases taken up through video conferencing.

Vide this order, I shall dispose of two petitions for grant of pre-arrest bail i.e. **CRM-M-38835-2018** filed by petitioner Navneet Kumar Kamra and **CRM-M-40351-2018** filed by petitioner Neeraj Arora, both of them being accused in FIR No.12 dated 2.6.2018, under Sections 420, 120-B IPC, registered with Police Station Khui Khera, District Fazilka.

Briefly stated, the facts of the case as per the prosecution version are that the criminal machinery in this case was set into motion by complainants Vinod Kumar, Sadhu Ram, Banwari Lal and Rakesh Kumar, all residents of District Fazilka. In the written complaint submitted by them to SSP, Fazilka, they stated that accused Neeraj Kumar Arora and Navneet Kumar Kamra have constituted a company engaged in business of constructing poly houses in the agricultural land of the farmers; although they had received money from them but had failed to make poly houses within the stipulated period; they had not returned the amount to them either; the work of constructing poly house of Vinod Kumar was to start from 25.4.2017 and to be completed by 24.7.2017 and accused had received a sum of Rs.18,21,000/- from Vinod Kumar up to 28.7.2017 but the work was not completed; as regards complainant - Sadhu Ram, work of constructing poly house was to start from 19.12.2016 and to be completed by 18.2.2017 and accused had received a sum of Rs.10,60,000/- from him up to 26.4.2017 but the work was not completed; in case of complainant Rakesh Kumar, the construction work was to commence from 17.7.2017

and to be completed by 16.10.2017 and accused had received a sum of Rs.15,00,000/- from him up to 15.7.2017 but the work was not completed. Similarly in case of complainant Banwari Lal, the construction work was to commence from 3.6.2017 and to be completed by 2.9.2017 and accused had received a sum of Rs.26,18,000/- from him up to 4.10.2017 but the work was not completed. In that way, accused have cheated the complainants. On receipt of such complaint, formal FIR was recorded.

Apprehending their arrest in this case, petitioners/accused had approached the Court of Sessions seeking grant of pre-arrest bail but their such applications were dismissed by the Court of learned Additional Sessions Judge/Vacation Judge, Fazilka vide separate orders dated 20.6.2018. As such, they have approached this Court asking for similar relief by way of filing separate petitions.

Notice of the petitions was given to the respondent – State, which is being represented by State counsel. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

As per the allegations in the complaint though the petitioners – accused have received money from the complainants but have not constructed the poly houses in their fields within a stipulated period. However, it is the stand of the petitioners that 80% of the work has already been completed and subsequently due to bad weather and non-supply of raw material, the work could not be completed, though the petitioners are still

ready to complete the work. In any case, the dispute between the parties comes out to be of civil nature. The contention raised by learned counsel for the petitioners that the dispute between the parties is of civil nature, which has been so presented by the complainants so as to bring it within four corners of criminal offences, cannot be brushed aside outrightly and it seems to have force. The complainants have got the remedy of approaching the Civil Court or any concerned forum or authority for redressal of their grievances. The petitioners have already joined the investigation as directed by the Court while granting concession of interim bail to them. The petitioners have categorically contended the work to a major extent has already been completed and they are willing to do the remaining work, if any. I find that the custodial interrogation of the petitioners is not necessary. Keeping in view the facts and circumstances of the case, both the petitions call for acceptance, the same are allowed, subject to the petitioners fulfilling following conditions:

- (i) that the petitioners shall make themselves available for interrogation by the police officer(s) as and when required;
- (ii) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioners shall not leave India without the previous permission of the Court; and
- (iv) that the petitioners shall surrender their passports before the

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Investigating Officer and if they are not having passport, then shall file the affidavit in that regard.

In case the petitioners violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail to them.

2.7.2021
Brij

(H.S. MADAAN)
JUDGE

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**