

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-42657-2021(O&M)

Date of decision : 28.10.2021

Parminder Kumar Bansal

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Dr.Rau P.S. Girwar, Advocate
for the petitioner.

Mr.Arun Kaundal, DAG, Punjab.

Mr.Ankit Kumar, Advocate
for the complainant.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

CRM-36107-2021

This is an application under Section 482 Cr.P.C. for placing on record the true typed copy of balance sheet as Annexure C-1 and true typed copy of application of plant & machinery as Annexure C-2.

The application is allowed. Annexures C-1 and C-2 are taken on record subject to just all exceptions.

CRM-M-42657-2021

This is first petition filed under Section 438 of the Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.100 dated 14.08.2021 registered under Sections 406, 380 IPC at Police Station Nehianwala,

Learned counsel for the petitioner has contended that the petitioner is cousin of the complainant and the complainant was out of funds as he was facing charges in a case filed against him under Negotiable Instruments Act, 1881 and thus, the petitioner entered into a lease agreement with him dated 18.03.2021 (Annexure P-4) with respect to the land measuring 1 kanal 0 marla for the rent amount of Rs.12,000/- annually and that the sister of the petitioner had also entered into a lease agreement dated 18.03.2021 (Annexure P-5) with the complainant. It is further submitted that the said lease premises were under the Co-operative Bank, Bathinda and in fact the complainant was not authorized to enter into the said agreement and thus, accordingly the petitioner wrote a letter dated 08.07.2021 to the Manager, Punjab National Bank, Zila Parishad Branch, Bathinda, for cancellation of the loan which he had initially sought. It is further submitted that the petitioner invested Rs.13,50,000/- and same was given to the brother of the complainant and that the petitioner has also filed a civil suit against the complainant and the present case has civil proceedings. It is also submitted that a co-ordinate Bench of this Court vide order dated 11.10.2021 granted interim bail to the petitioner and had even considered the arguments of the petitioner and the complainant so as to ascertain the present price of the machinery which the complainant is alleging to have been sold by the petitioner. It is submitted that as per report obtained from the Chartered Accountant although the plant and machinery in the year 2011 was valued at Rs.1,00,93,067.74/-, but as of today the said plant and machinery values Rs.12,40,753.42-. Learned counsel for the petitioner has also referred to photographs to show that even upto yesterday the said plant and machinery was there in the premises and thus the version of the

complainant is incorrect.

Learned counsel for the petitioner also submitted that the petitioner has also already paid Rs.13.50 lacs and thus, nothing is due from the petitioner or his son. In any case the matter is to be adjudicated by the civil Court after giving opportunity to lead evidence to both the parties.

Learned counsel for the State and the complainant have opposed the said bail application and have reiterated the fact that the petitioner, who was given only one kanal of land on lease, has dismantled the machinery and sold the same. In pursuance of the order passed by co-ordinate Bench, to show the value of the machinery, counsel for the complainant has referred to the balance sheet (Annexure C-1) filed along with the CRM-36107-2021. A perusal of the balance sheet would show that the same is of year 2010 and thus, no document has been produced to show the latest value of the said machinery.

Learned counsel for the complainant has further submitted that the petitioner is his cousin and it is only because he had caused loss to the complainant, that he had got the FIR registered against the petitioner, otherwise there was no ill will against the petitioner. It is further submitted by learned counsel for the complainant that as per the status report filed by the State, the plea that Rs.13,50,000/- have been paid to the brother of the complainant has no relevance in the present case.

Keeping in view the abovesaid facts and circumstances, more so, the fact that in the present case a civil suit has been filed by the petitioner and the same is pending and that the present case has civil tappings and also the fact that plea of both the parties is based on documents and that the petitioner had entered into a lease agreement dated 18.03.2021

with respect to a land measuring 1 kanal for the rent amount of Rs.12,000/- annually, and also the fact that the dispute over the question whether machinery belonging to the complainant has been dismantled by the petitioner or not and further as to what is the value of the machinery are moot questions which have to be decided during trial, the present petition for anticipatory bail is allowed and the interim order dated 11.10.2021 is made absolute and in the event of arrest, the petitioner shall be released on bail subject to furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) of Cr.P.C.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

October 28, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No