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

CRM-M-42961-2021

Date of decision : 12.10.2021

Partap Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amandeep Singh Manaise, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. J.S. Moudgil, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.101 dated 02.09.2021 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 at Police Station Dhariwal, District Gurdaspur.

Learned counsel for the petitioner has submitted that in the present case, the complainant-Amrik Chand alongwith four other persons had filed a Civil Suit No.CS/1819/2014 dated 18.09.2014 for recovery of Rs.65,00,000/- against the father of the present petitioner and other persons. It has been submitted that the petitioner was not a party in the said civil suit. It is further submitted that the written statement was filed in the same and the plea had been taken by the defendants therein that the documents sought to be relied upon by the plaintiff therein were forged and fabricated and in

order to prove the same, the Handwriting Expert was examined and the report of the Handwriting Expert dated 25.02.2019 (Annexure P-6) has also been annexed with the present petition. It is submitted that the civil suit is at the final stage. After a period of more than 7 years from the date of filing the civil suit, the present FIR has been got registered in which, apart from the father of the petitioner, even the petitioner has been roped in, only to exert pressure on the family of the petitioner so as to make them concede in the civil suit in favour of the complainants. It is submitted that apart from the fact that the dispute in the present case is civil in nature, there is a delay of 7 years in registration of the FIR. Even as per the record, the petitioner is not a party to the alleged agreements dated 21.06.2010 and 01.04.2014 (Annexures P-3 and P-4). He has further submitted that the petitioner is not involved in any other case.

Learned counsel for the petitioner has further relied upon the judgment of the Hon'ble Supreme Court in **Inder Mohan Goswami and Another v. State of Uttaranchal and Others**, reported as **2007 (12) SCC 1**.

Relevant paragraphs of the said judgment are reproduced hereinbelow:

“12. Having committed breach of his contractual obligations, respondent No. 3 filed a criminal complaint to the SHO of Raiwala, Rishikesh police station on 23.4.2003 against the appellants and three other persons alleging that he had been cheated by the appellants in connivance with other persons by selling a portion of his land to a third party and by cancelling the General Power of Attorney. After examining the matter, the SHO arrived at the conclusion that no cognizable offence had been committed and the dispute in question was of civil nature for which the civil remedy is

available in law.

13. Respondent No. 3 filed another complaint on the same day, i.e. 23.4.2003, to the Senior Superintendent of Police, Dehradun and got the FIR registered against the appellant and three other persons. The allegation of respondent No. 3 was that the appellants in connivance with other persons had sold the part of land situated in Old Khasra No. 140 and new Khasra No. 89 which had been transferred to them by way of General Power of Attorney. The FIR was registered on 23.4.2003 as Case No. 26 of 2003 under sections 420, 467 and 120B Indian Penal Code.

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17. The High Court by order dated 16.7.2004 dismissed the petition under Section 482 Criminal Procedure Code filed by the appellants on the ground that the records show that the allegations in the FIR constitute an offence as alleged by the complainant. The said order is challenged in this appeal by special leave.

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*34. In **Indian Oil Corporation v. NEPC India Ltd. & Others, 2006(3) RCR (Criminal) 740 : (2006)6 SCC 736**, this court again cautioned about a growing tendency in business circles to convert purely civil disputes into criminal cases. The court noticed the prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. The court further observed that "any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged."*

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42. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private

vendetta or with an ulterior motive to pressure the accused...

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56. Reverting to the facts of this case, we are of the considered view that the impugned judgment of the High Court in declining to exercise its inherent power has led to grave miscarriage of justice. Consequently, we set aside the impugned judgment and in order to prevent abuse of the process of the court and to otherwise secure the ends of the justice we direct that all the proceedings emanating from the FIR shall stand quashed. The appeal is disposed of accordingly. In the facts and circumstances of this case, we direct the parties to bear their own costs.”

Notice of motion.

On advance notice, Mr. Saurav Khurana, DAG, Punjab, appears and accepts notice on behalf of the State and Mr. J.S. Moudgil, Advocate appears on behalf of the complainant and have submitted that they are fully prepared to argue the matter and assist this Court. They have submitted that the present petitioner does not deserve the concession of anticipatory bail inasmuch as an amount of Rs.65,00,000/- is due from him and the said amount of Rs.65,00,000/- is yet to be recovered from the petitioner.

This Court has heard the learned counsel for the parties and perused the paper book.

It is not in dispute that the civil suit had been filed by the complainant-Amrik Chand alongwith other persons against the father of the petitioner, for recovery of Rs.65,00,000/-. The petitioner is not a party in the said civil suit. In the written statement, the objections have been taken that the documents relied upon by the complainant/plaintiff in the said suit are forged and fabricated. The said civil suit was filed in the year 2014 and is at

the fag end and even the petitioner's father has got the Handwriting Expert examined and it is only after 7 years of the alleged incident that the present FIR has been registered. The present case is apparently a civil dispute which has been sought to be given a criminal flavour. The Civil Court would finally adjudicate upon the matter and thus, this Court does not wish to make any opinion with respect to the merits of the case. The petitioner is, in fact, not even a party to the alleged agreements dated 21.06.2010 and 01.04.2014 and is apparently being accused in the case after 7 years on the pretext of being the son of Baldev Singh.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is granted the concession of anticipatory bail subject to the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

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.

12.10.2021*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**