

CRM-M-43553-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(206)

CRM-M-43553-2021.
Date of Decision:-15.12.2021.

Davinder Kaur Walia

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Dilpreet Singh Gandhi, Advocate for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Ms. Ragini Kukkar, Advocate for
Mr. Vaibhav Narang, Advocate for the complainant.

(Through Video Conferencing)

VIKAS BAHL, J. (Oral)

This is the first petition under Section 438 of Cr.P.C. for grant of pre-arrest bail in FIR No.29 dated 27.08.2021 under Sections 406, 420 of IPC, registered at Police Station NRI Commissionerate Amritsar, District Amritsar.

On 14.10.2021, this Court was pleased to pass the following order:-

“Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.29 dated 27.08.2021 registered under Sections 406, 420 of the Indian

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*Penal Code, 1860 at Police Station NRI Commissionerate
Amritsar, District Amritsar.*

*Learned counsel for the petitioner inter alia contends
that in fact, the petitioner was given an attorney to take care of
the house of the complainant and the amount which was paid
through RTGS, was for the upkeep of the house and at any rate,
the dispute in question is having civilappings and is based on
documents.*

Notice of motion.

*On asking of the Court, Mr. Saurav Khurana, DAG,
Punjab, appears and accepts notice on behalf of State of Punjab
and seeks time to get instructions.*

Adjourned to 15.12.2021.

*In the meantime, in the event of arrest, the petitioner
shall be released on interim 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) Cr.P.C.”*

Learned counsel for the petitioner has submitted that in
pursuance of the above order, the petitioner has joined the investigation.

Learned State counsel has opposed the present petition for
grant of anticipatory bail to the petitioner on the ground that the petitioner
has although joined the investigation but he is not cooperating, inasmuch as
the amount of Rs.5,00,000/- is to be recovered from the petitioner.

Learned counsel for the complainant has also opposed the

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present petition for grant of anticipatory bail to the petitioner on the ground that the complainant had faith in the petitioner and had given Rs.5,00,000/- to the petitioner to resolve her property dispute and regarding the same the complainant had paid Rs.2,00,000/- in cash and Rs.3,00,000/- through cheque.

Learned counsel for the petitioner, in rebuttal, has submitted that apart from relying upon the arguments raised on 14.10.2021, it is stated that the petitioner was given the amount of Rs.2,00,000/- for the upkeep of the house as is apparent from the power of attorney dated 26.04.2018 (Annexure P-1) which had been admittedly executed by the complainant in favour of the petitioner. It was specifically mentioned in the said power of attorney that the petitioner was to take care of the house in every possible way and the petitioner has been given the money for the said upkeep. It is further submitted that the complainant does not have anything in writing to show that the petitioner had made any compromise as is sought to be alleged. It is further submitted that at any rate the present dispute is a monetary dispute and at best, the same can be adjudicated before the Civil Court, after both the parties are given due opportunity to present their case. It is submitted that the registration of the present FIR cannot be the basis for recovery of money from the petitioner illegally.

Keeping in view the above-said facts and circumstances moreso, the fact that in the present case there are two separate versions, as have been given by the petitioner and the complainant, and a perusal of the power of attorney executed by the complainant in favour of the petitioner would show that the petitioner was directed to take care of the house of the complainant and also the fact that the present dispute has civil tappings and

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the petitioner has joined the investigation, the present petition is allowed and the order dated 14.10.2021 is made absolute.

However, nothing stated above shall be construed as a final 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

December 15, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No