

**CRM-M-36275-2019(O&M) and
CRM-M-36444-2019(O&M)**

-:1:-

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

1. CRM-M-36275-2019(O&M)

Hari Parsad and others

..... Petitioners

Versus

State of Haryana

..... Respondent

2. CRM-M-36444-2019(O&M)

Hari Parsad and others

..... Petitioners

Versus

State of Haryana and another

..... Respondents

Date of decision :-15.7.2021

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

Present : Ms.Varuna Singh, Advocate
for the petitioners in both petitions.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Cases taken up through video conferencing.

Vide this order, I shall dispose of two petitions i.e. **CRM-M-36275-2019** and **CRM-M-36444-2019**.

CRM-M-36275-2019 has been filed by petitioners Hari Parsad, aged 48 years and his sons Vikas Verma, aged 30 years and Akash Verma,

CRM-M-36275-2019(O&M) and

CRM-M-36444-2019(O&M)

-:2:-

aged 25 years, all of them being accused in FIR No.0365 dated 12.8.2019, under Sections 148, 149, 380, 427, 447, 452 and 506 IPC, registered with Police Station Sonipat Sadar for grant of pre-arrest bail. Whereas **CRM-M-36444-2019** has been filed by the above-said petitioners under Section 482 Cr.P.C. for quashing of the above FIR and all ancillary proceedings arising therefrom qua them.

Briefly stated, the facts of the case as per the prosecution story are that criminal machinery in this case was set into motion by complainant Ishwar Singh son of Sh.Kedar Singh, resident of Chhotu Ram Chowk, Sonipat, who in the written complaint submitted by him to the police stated that he has got a plot measuring 1075 square yards situated at Murthal Road near Surajmal Petrol Pump, Patti Musalman in the name of his wife Smt.Murti and daughter Ms.Promila having purchased the same in the year 1990; that he had got constructed two rooms in the plot enclosing it with a boundary wall and obtaining electricity connection installing a submersible pump; thereafter, Hari Parsad (petitioner No.1) alongwith his sons and other persons were threatening to take illegal possession of the plot from the complainant side, as such they had demolished the boundary wall; the complainant had taken the matter to Panchayat wherein it was decided that the demarcation would be got carried out and then Hari Parsad etc. would take possession of their share; however, on 12.8.2019 Hari Parsad along with his sons as well as Jagmender son of Bheem Singh, Rakesh son of Kali Ram along with 5-6 persons armed with sticks trespassed in the property of the complainant, demolished the boundary wall, damaged the roof of the

room and took away starter of tubewell; when the complainant raised objection, they threatened to kill him.

On the basis of such written complaint, formal FIR in the matter was recorded.

Apprehending their arrest in this case, petitioners/accused have approached this Court for grant of pre-arrest bail by way of filing **CRM-M-36275-2019**, notice of which has been issued to respondent - State, which put in appearance through State counsel.

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

First coming to **CRM-M-36275-2019** filed on behalf of petitioners/accused for grant of pre-arrest bail.

Learned counsel for the petitioners has contended that as a matter of fact plot bearing khasra No.6127/2925, 6128/2925, 6783/2966, 6784/2966 is owned and possessed by family of the petitioners with which the complainant, his wife or daughter have no concern; petitioner No.3 – Akash Verma had sold his share in the plot to Rakesh Kumar son of Kali Ram vide sale deed No.4334 dated 11.7.2019 and another plot measuring 354 square yards to Rakesh and Jagmender Singh vide sale deed No.3556 dated 27.6.2019; petitioner No.1 – Hari Parsad and Sunil had also sold their share of plot in favour of Rakesh and Jagmender vide sale deed No.4335 dated 11.7.2019; some part of shares of petitioners still remain in the khasra numbers in question, as such they became co-sharers in the joint property; the complainant has lodged a false FIR against the petitioners; a

compromise had also taken place between the parties on 11.8.2019, copy of which being Annexure P4; the dispute between the parties is of civil nature; as a matter of fact the petitioners were not present at the spot on the date of the alleged incident; petitioner No.2 – Vikas Verma is suffering from 100% permanent disability on account of polio and a medical document in that regard had been placed on record; petitioner No.3 Akash Verma always accompanies Vikas Verma because Vikas Verma is unable to walk properly or drive any vehicle. He further submits that the petitioners have submitted detailed representation to SP, Sonipat but to no effect. According to learned counsel for the petitioners, petitioners have since joined the investigation; no recovery is to be effected from them, therefore their custodial interrogation is not required, as such the interim bail granted to them vide order dated 2.9.2019 be made absolute and present petition be accepted.

Though learned State counsel has opposed the request but I find that the petition calls for acceptance.

The dispute between the parties appears to be of civil nature. The petitioners having joined the investigation with no recovery to be effected from them, the necessity of their custodial interrogation does not come out to be there. Thus, without going further into the merits of the case, I find that the petition bearing **CRM-M-36275-2019** deserves to be accepted. Therefore, the interim bail granted to petitioners vide order dated 2.9.2019 is made absolute subject to their 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 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.

CRM-M-36275-2019 is allowed accordingly.

Now coming to **CRM-M-36444-2019** filed on behalf of petitioners for quashing of FIR and ancillary proceedings arising therefrom is concerned, in which the petitioners are said to have joined the investigation, which is yet to be completed. The petitioners have got remedy of raising all the pleas before the Investigating Officer, who may consider the same while carrying out the investigation. If the Investigating Officer finds that no such incident had taken place and dispute between the parties is of civil nature only, then he may not challan the petitioners at all and could prepare cancellation report to be filed in the Court of competent jurisdiction. However, in view of the facts and circumstances, I do not find it a fit case to quash the FIR and ancillary proceedings by exercising powers

CRM-M-36275-2019(O&M) and
CRM-M-36444-2019(O&M)

:-6:-

under Section 482 Cr.P.C. especially when the case is still at the stage of investigation.

Therefore, **CRM-M-36444-2019** stands dismissed accordingly.

15.7.2021
Brij

(H.S. MADAAN)
JUDGE

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