

CRM-M-52841-2021

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

(102)

CRM-M-52841-2021.
Date of Decision:-17.12.2021.

Gajjan Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Achin Gupta, Advocate for the petitioners.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. C.M. Munjal, 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 anticipatory bail to the petitioners in the event of their arrest in case FIR No.109 dated 19.11.2021 under Sections 420, 506 and 120-B of IPC, registered at Police Station Ghall Khurd, District Ferozepur.

Learned counsel for the petitioner has submitted that in the present case, it was the father of the complainant who had owed money to petitioner No.2 and for the said purpose, had issued two cheques each dated 06.11.2021 for an amount of Rs.3,00,000/- each. It is further submitted that the total amount which was owed was Rs.6,90,000 and it has been stated by the father of the complainant and that they could get diesel filled up for an amount of Rs.90,000/- from the petrol pump to clear the said amount. It is further argued that the present FIR has been registered after a delay of 13 days and it is only after the cheque which was

presented by the petitioner No.2 was dishonoured on 09.11.2021.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, has appeared and is fully prepared to assist this Court. Learned State counsel along with the counsel for the complainant, have vehemently opposed the present application for grant of anticipatory bail and have submitted that in the present case, the diesel has been taken from the petrol pump worth Rs.90,000/- during the day time and the said petrol pump is owned by the mother of the complainant and as far as the monetary dispute is concerned, the same is between the father of the complainant and the petitioner and not with the mother of the complainant, who is the owner of the petrol pump. It is further submitted that the petitioners are involved in four more cases and in case liberty is sought, then at least the amount of Rs.90,000/- should be deposited by the petitioners in trial Court, which along with interest should be paid to the person(s) who ultimately is/are successful in the case.

Learned counsel for the petitioners, in rebuttal, has submitted that the petitioners are ready to deposit the amount of Rs.90,000/- with the trial Court without prejudice to their rights and has further prayed that the said amount be deposited in a Fixed Deposit, to be paid to the persons(s) who ultimately succeeds in the criminal trial.

Keeping in view the above-said facts and circumstances, more so the fact that in the present case, there are contradictory versions put up by the petitioners and the complainant and the petitioners have agreed to deposit the amount of Rs.90,000 before the Court, this Court deems it appropriate to allow the present petition for grant of anticipatory bail to the petitioners.

Accordingly, the present petition is allowed and in the event of arrest, the petitioners are granted the concession of anticipatory bail on their furnishing bail/surety bonds to the satisfaction of the Investigating Officer/Arresting Officer subject to the conditions as envisaged under Section

CRM-M-52841-2021

438 (2) of Cr.P.C. and also upon petitioners depositing the amount of Rs.90,000/- with the Illaqa Magistrate within a period of four weeks from today. The concerned Court is directed to deposit the said amount in Fixed Deposit and the same would be released to the person who would ultimately be successful in the trial. However, the petitioners shall join the investigation as and when called upon to do so, by the Investigating Officer/Investigating Officer.

It is clarified that in case the petitioners are convicted in the trial, then the said amount will be paid along with interest to the complainant and in case the petitioners are acquitted by the trial Court, then the said amount will be returned to the petitioners along with interest. It is, however, made clear that in case the said amount of Rs.90,000/- is not deposited within the aforesaid time, then the present petition shall be deemed to have been dismissed.

In case, the petitioners do not cooperate with the investigation, it will be open to the State to move an application for cancellation of bail.

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 17, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No