

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18348-2021(O&M)
Date of Decision: 23.11.2022

(I)
Neetu

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CRM-M-19224-2021 (O&M)

(II)
Parmod Kumar

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. C.M. Munjal, Advocate, for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

Mr. Piyush Hans, Advocate, for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

Both petitions are taken up together for final disposal since the prayer in both the petitions pertain to the grant of anticipatory bail and they arise out of the same FIR.

As per the FIR which was lodged under Sections 420 and 120-B IPC by the complainant against both the petitioners namely, Parmod Kumar and Neetu that they have committed a cheating of Rs. 13,00,000/-. The allegations were that the complainant was doing a business of computer

software and hardware for the last 14-15 years under the name and style of M/s. Om Computers at Ghumhar Mandi, GT Road, Ferozepur Cantt. The complainant and the aforesaid Parmod Kumar were known to each other very well for long time and they were also having business dealings with each other and the other petitioner namely Neetu who is the wife of the aforesaid Parmod Kumar was also known to the complainant very well. As per the allegations both the petitioners came to the complainant and told him that one school has contacted them for providing computers, LEDs, monitors, printers and PCs for online classes and the abovesaid accused also told that in their family and friend circle they are also need of some computers and laptop etc for online classes. The petitioners purchased computers and goods etc. for approximately Rs. 13,00,000/-from the complainant and they gave a post dated cheque of Rs. 13,00,000/- dated 24.08.2020 and promised that they will arrange the funds in the first week of September. Thereafter, the cheque was dishonoured due to insufficient funds and in this way, a cheating has been committed by the petitioners.

Learned counsel for the petitioners appearing on behalf of both the petitioners submitted that it is a case where on the face of it, is a civil dispute if any pertaining to financial transactions between the petitioners and the complainant. He submitted that even a perusal of the FIR would show that the petitioners and the complainant were having business relations with each other and the dispute was pertaining to purchase of some computers etc. for which a cheque was issued by the petitioners which was ultimately dishonoured. He submitted that the complainant thereafter filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 which is still pending but he never choose to file any civil suit for recovery etc. He

submitted that in fact there is a dispute with regard to amount as well because the disputed amount was only Rs. 3,00,000/- and not Rs. 13,00,000/-. He further submitted that the lodging of the present FIR in such kind of civil dispute is an abuse of the process of law. He further submitted that be that as it may, both the petitioners were granted interim protection by this Court vide orders dated 12.05.2021 and in pursuance of the aforesaid orders, both the petitioners have joined the investigation and they are cooperating with the investigation process and therefore, the aforesaid orders may be made absolute.

Mr. Amit Rana, learned Senior Deputy Advocate General, Punjab has stated on instructions from ASI Harbans Singh who is present in the Court that the matter is being now inquired into by the Superintendent of Police (Investigation), District Ferozepur and both the petitioners have joined the investigation and they have cooperated with the investigation process. He has submitted on specific instructions that both the petitioners are not required for custodial interrogation.

Mr. Piyush Hans, Advocate appearing on behalf of the complainant has submitted that it is a case where the petitioners who are husband and wife have cheated the complainant and instead of returning back Rs. 13,00,000/-, they have issued a cheque which was ultimately dishonoured. However, the complainant has filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 which is still pending. He further submitted that the complainant is facing financial hardship and therefore, the petitioners are not entitled for the grant of anticipatory bail.

I have heard the learned counsel for the parties.

This Court vide orders dated 12.05.2021 had granted interim protection to the petitioners whereby their arrest was stayed and as per the

learned State counsel, the petitioners have already joined investigation and they have cooperated with the investigation and has specifically stated that they are not required for custodial interrogation. A perusal of the FIR and the dispute would show that the dispute appears to be a civil dispute between the parties. The complainant has also filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 which is pending and pertains to Rs. 13,00,000/- which is the subject matter of the present dispute. The objection raised by the learned counsel for the complainant is that it is a case of cheating and therefore, the anticipatory bail cannot be granted to the petitioners.

After hearing the learned counsel for the parties, this Court is of the view that in the facts and circumstances of the present case and in view of the stand taken by the learned State counsel, both the petitions deserve to succeed.

Consequently, both the petitions are allowed.

It is directed that in future in case the petitioners are required for joining of investigation, then they shall join the investigation and cooperate with the investigation process. In the event of their arrest, they shall be released on bail by the Arresting/Investigating Officer on their furnishing bail bonds/sureties to his satisfaction, subject to the conditions as provided under Section 438(2) Cr.P.C.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petitions only.

23.11.2022

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No