

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(209)

CRM-M-33551-2022

Date of decision: - 24.11.2022

Gaurav Arora

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Amit Chaudhary, Advocate,
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

Mr. Akaant K. Mittal, Advocate
for the complainant.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.146 dated 02.07.2022, under Sections 420, 406 and 120-B IPC, at Police Station Focal Point (Police Commissionerate, Ludhiana), District Ludhiana.

On 01.08.2022, a Co-ordinate Bench of this Court was pleased to pass the following order:-

“CRM-27142-2022

Application is allowed, as prayed for.

CRM-M-33551-2022

The petitioner has approached this Court under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in case FIR No.146 dated 02.07.2022 under Sections 420, 406, 120-B of the Indian Penal Code, 1860, registered at Police Station Focal Point

(Police Commissionerate, Ludhiana), District Ludhiana.

Learned counsel appearing on behalf of the petitioner inter alia contends that the dispute, in question, relates to an agreement to sell entered into between the petitioner as well as the complainant. As per the allegations, the petitioner had agreed to sell an area measuring 1283.33 square yards out of the total area measuring 2566.66 square yards, situated at Industrial Area, Phase-8, Focal Point, Ludhiana. The allegations of the complainant are to the effect that the Sub-division of industrial plot was impermissible as per terms & conditions of the lease executed by the petitioner with the allotment authority. It is contended by learned counsel for the petitioner that the petitioner has already filed a civil suit seeking annulment of the aforesaid agreement since the true facts have been concealed by the complainant and as a matter of fact, the sale consideration was fixed at `16 Crores and that on account of failure on the part of the petitioner to pay the earnest money to the extent of 10%, the said agreement to sell is rendered null & void and unenforceable. He also contends that the complainant has also instituted a civil suit for recovery of the earnest money purportedly advanced to the petitioner. He further submits that the dispute, in question, pertains to documentary evidence and that the custodial interrogation of the petitioner is not required in the case. He also submits that the petitioner does not suffer from any other criminal antecedents and two other co-accused of the petitioner have already been granted the concession of anticipatory bail vide order dated 20.07.2022 passed by Additional Sessions Judge, Ludhiana.

Notice of motion.

Ms. Amarjit Kaur Khurana, D.A.G., Punjab, who is present in the Court accepts notice on behalf of the respondent-State.

Mr. Vivek Sharma Vashisht, Advocate, appears and accepts notice on behalf of the complainant and files his Vakalatnama, which is taken on record. He prays for some time to place on record the necessary documents.

To come up for further consideration on 24.11.2022.

In the meanwhile, the petitioner is directed to join investigation as and when so required by the Investigating Agency. In the event of petitioner joining investigation, he shall be admitted to interim bail by

the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

(VINOD S. BHARDWAJ)
JUDGE

August 01, 2022"

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

Learned State counsel, on instructions from ASI Sukhdev Singh, has submitted that the petitioner has joined the investigation and is not required for further investigation.

Keeping in view the abovesaid facts and circumstances more so, the facts which have been noticed in abovesaid order dated 01.08.2022 and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 01.08.2022 is ordered to be 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.

November 24, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No