

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(214)

CRM-M-37407-2022

Date of decision:- 05.12.2022

Gurwinder Singh and another

....Petitioners

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Binderjit Singh, Advocate,
for the petitioners.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

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 case FIR No.0052 dated 06.08.2022 registered under Sections 420 and 120-B IPC at Police Station Kot Fatta, District Bathinda.

On 24.08.2022, this Court was pleased to pass the following order:-

“Learned counsel for the petitioners inter alia contends that the present dispute has civil trappings and as per agreement to sell dated 20.10.2021, it had been specifically stated that by 30.04.2021, the measurement of the land would be done and the remaining amount would be paid as per the agreed rate. It is, thus, submitted that the primary reason given by the Additional Sessions Judge, Bathinda while dismissing the case of the present petitioners, to the effect that the petitioners had stated that they were owner to the extent of land measuring 31 kanals whereas actually they were owner of land measuring 29 kanals, is an

incorrect finding. It is contended that even at the first page of the said agreement to sell, it has been mentioned that the land is approximately 31 kanals. It is further the contention of the petitioners that it is the complainant who was not ready with the balance amount and thus, did not execute the sale deed and immediately after the last date, the petitioners had filed the civil suit for permanent injunction restraining the complainant from interfering in their possession with respect to the land in question and in para 2 of the said civil suit, it was specifically pleaded that defendant No.1 (complainant herein) did not turn up to get the sale deed in his favour on the date fixed. It is argued that in the said civil suit, vide order dated 04.05.2022, the interim order granting status quo regarding possession over the suit property has been passed and the complainant has, subsequent to the same, filed a suit for specific performance and in the said suit, no plea has been taken that the land, beyond the ownership of the petitioners, had been agreed to be sold. It is further argued that the said civil suits are pending and the issue as to who is ready and willing to perform their part of the agreement would be finally adjudicated in the said proceedings and the entire case is based on documentary evidence, thus, custodial interrogation of the petitioners is not required.

Notice of motion for 02.11.2022.

In the meantime, in the event of arrest, the petitioners shall be released on interim bail subject to their furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioners 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. 24.08.2022”

Learned counsel for the petitioners has submitted that in pursuance of the said order, the petitioners **have** joined the investigation.

Learned State counsel has submitted that the petitioners have joined investigation and are not required for further investigation

Keeping in view the abovesaid facts and circumstances more

so, the facts which have been noticed in the order dated 24.08.2022 and also the fact that the petitioners have joined the investigation and are not required for further custodial interrogation, the present petition is allowed and the interim order dated 24.08.2022 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.

December 05, 2022

Davinder Kumar/sunena

**(VIKAS BAHL)
JUDGE**

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No