

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

**CRM-M-38499-2020
Date of decision-16.03.2022**

Mohinder Pal Jain

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. D.S. Dhaliwal, Advocate for the petitioner.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

Mr. Sunil Kumar Arora, Advocate for the complainant.

MANOJ BAJAJ, J. (Oral)

Petitioner has approached this Court under Section 438 Code of Criminal Procedure to seek anticipatory bail in case FIR No.0093 dated 15.10.2020 under Sections 420, 120-B read with Section 34 of Indian Penal Code, 1860 registered at Police Station Ferozepur Cantt, Ferozepur, Punjab, who apprehends his arrest at the hands of Police.

Learned counsel for the petitioner has argued that as per allegations petitioner executed an agreement to sell on 07.07.2017 with the complainant and received a sum of Rs.3.5 lakhs and since the same was not materialised, the complainant falsely implicated him through the present

FIR. He has argued that the dispute is purely of civil nature and as the case of the prosecution is based upon the documentary material, his custodial interrogation may not be necessary. He prays for anticipatory bail.

The prayer is opposed by learned counsel for the complainant who has drawn the attention of the Court to the order dated 21.12.2020 and submits that accused has not complied with the undertaking given before this Court. The order reads as under:-

“Learned counsel for the petitioner as well as learned counsel for the complainant have both submitted that there could be some chances of amicable settlement.

At this stage, learned counsel for the petitioner has submitted that his client, in any case, is ready with an amount of Rs.2 lakhs and that in case the complainant is willing to compromise the matter on some reasonable terms, he would pay some more amount also.

Learned counsel for the complainant submits that he shall also seek necessary instructions.

Adjourned to 18.2.2021.

In the meantime, arrest of the petitioner shall remain stayed especially in view of the aforesaid offer made by learned counsel for the petitioner.”

Learned counsel for the petitioner states that in pursuance to the above order, a sum of Rs.1,00,000/- has been paid to the complainant by way of demand draft.

However, learned counsel for the complainant has disputed the payment of Rs.1,00,000/- but in support of his stand, he has not produced any material much less his account statement, despite order dated

13.07.2021 directing him to file the affidavit as well as the account statements of the complainant and his wife. Apart from it, the dispute between parties is purely of civil nature and admittedly no suit for specific performance of contract has been filed.

Learned State counsel assisted by ASI Mohinder Singh has fairly stated that the case of the prosecution is based upon documentary material, therefore, custodial interrogation of the petitioner is not required for the time being.

Considering above background, nature of offence as well as dispute, this Court, without expressing any opinion on the merits of the case, finds that custodial interrogation of the petitioner may not be necessary. Resultantly, the petition is allowed and the interim order dated 21.12.2020 is made absolute and the petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

(MANOJ BAJAJ)
JUDGE

16.03.2022
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No