

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

CRM-M-45710-2022

Date of decision : December 12, 2022

Neelima Suri and another

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present :-Mr. Rajat Mor, Advocate
for the petitioners.

PANKAJ JAIN, J. (ORAL)

Learned counsel for the petitioners submits that grievance of the petitioners is qua the observations made in para 7 of the impugned order wherein the trial court while granting bail to the respondent observed as under:-

“Prima facie from the averments made in the complaint, case of civil nature is made out in place of criminal liability. There is thin line of demarcation between the fraud committed and breach of the contract. If the intention of the party, from the very beginning is to commit default, then case of cheating is made out whereas, when parties are unable to fulfill the terms of the contract or commits breach thereof lateron, the same is simple case of breach of agreement which invites civil liability in place of criminal liability. In present case, prima facie as per terms and conditions of agreement complainant carried out interior work in the hotel of applicant for which applicant has allegedly failed to make payment.

complainant. Allegedly, he stopped making payment of remaining work as work could not be completed within three months. Whether complainant or applicant committed breach of the terms and conditions of the agreement, or has not been able to complete construction work within a specified time is the question to be adjudicated by civil court. Thus, the application in hand deserves to be allowed.”

He submits that apart from the aforementioned he does not wish to press the present petition.

Keeping in view the limited prayer made by the learned counsel for the petitioners, this Court does not deem it fit to issue notice to respondent No.2 as the lower court while adjudicating upon the prayer made by respondent No.2 for pre-arrest bail under Section 438 Cr.P.C was only ceased of the prayer of bail and not of the dispute on merits.

In view of the aforesaid fact it is made clear that any observation made by the lower court while deciding upon the application of respondent No.2 seeking pre-arrest bail shall not be construed as an expression on the merit of the case.

The present petition is disposed off accordingly.

(PANKAJ JAIN)
JUDGE

December 12, 2022

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Whether speaking/reasoned	Yes
Whether Reportable :	No