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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51210-2019 (O&M)
Date of Decision:18.04.2022

Narinder Kumar and another

.. Petitioners

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vikas Gupta, Advocate for the petitioners.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

...

Manoj Bajaj, J. (Oral)

Petitioners have approached this Court under Section 438 Code of Criminal Procedure to seek anticipatory bail in a case FIR No.151 dated 05.06.2018 registered under Sections 420/120-B IPC at Police Station City Tarn Taran, District Tarn Taran, who apprehend their arrest at the hands of Police.

Learned counsel for the petitioners has argued that as per allegations in the FIR, complainant suffered wrongful loss of Rs.10 lacs, because the petitioner No.1, who had executed agreement to sell dated 12.12.2015 in her favour has not kept his word, as no sale deed was executed by him in favour of complainant, who not only wrongly retained the earnest money, but further sold the property to his brother Ganesh Kumar (petitioner No.2). He submits that the petitioners have been falsely implicated by complainant, who is a tenant in the property in question and the FIR has been lodged as a counter blast to the eviction petition (Annexure P-2) filed against her. According to him, the complainant has

also levelled false allegations regarding her physical relations with petitioner No.1 on his alleged promise to marry her. He has further drawn the attention of the Court to the order dated 02.12.2019, which reads as under:

“Learned counsel for the petitioners contends that the case against the petitioners is totally concocted as a counter blast. In fact, the petitioners had purchased the house in question on 18.12.2015. The complainant is a tenant on that house. The petitioners had filed an eviction petition against the complainant on 30.05.2018. Thereafter, the present FIR has been concocted on 05.06.2018.

Notice of motion for 16.04.2020.

Meanwhile, in the event of arrest, the petitioners 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. ”

Learned counsel for the petitioners has stated that in compliance of the above order, the petitioners associated themselves in the investigation and cooperated during interrogation.

Learned State counsel, on instructions from ASI Kamal Singh, has stated that indeed the petitioners have joined the investigation, however, their custodial interrogation is necessary for recovering the amount of earnest money paid by the complainant to the petitioner No.1.

During the course of hearing, it is not disputed by the learned State counsel that no civil litigation in respect of the agreement to sell dated 12.12.2015 or sale deed dated 18.12.2015 in favour of petitioner No.2 has been initiated by complainant.

At this stage, learned counsel for the petitioner has pointed out that there is nothing on record to show that complainant was ready and willing to perform her part of contract, therefore, the custodial interrogation

of the petitioners may not be necessary.

After hearing the learned counsel for the parties, considering the above background and the fact that the case of the prosecution is based upon documentary material, this Court without commenting anything upon the merits of this case, is of the opinion that the custodial interrogation of the petitioners may not be necessary.

Considering above, the petition is allowed and the interim anticipatory bail granted by this Court vide order dated 02.12.2019 is made absolute.

18.04.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No