

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

203

(1)

CRM-M-39303-2022

Date of decision: 30.01.2023

Kailash Goyal

.....Petitioner

Versus

State of Punjab

.....Respondent

(2)

CRM-M-34715-2022

Ramvijay Goyal

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. P.S. Ahluwalia, Advocate and
Mr. Rishabh Gupta, Advocate
for the petitioners.

Mr. Sanish Girdhar, AAG, Punjab assisted by
ASI Gurpreet Singh.

Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. Vishal Garg Narwana, Advocate and
Mr. Nitin Sachdeva, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner-Kailash Goyal has filed CRM-M-39303-2022 and petitioner-Ramvijay Goyal has filed CRM-M-34715-2022 under Section 438 Cr.P.C. for grant of anticipatory bail to them in case FIR No.121 dated 19.07.2022 under Sections 465 and 471 of the IPC (Sections 467 and 120-B of the IPC added lateron) registered at Police Station Kotwali Bathinda, District Bathinda.

Learned counsel for the petitioners have argued that the parties are closely related. They had been carrying on joint business, however, as the relations between them turned sour, it led to various civil litigations between them. It was precisely in the above

background, the instant case was planted upon them by the complainant on the allegations that they had forged partnership deed and thereby caused wrongful loss to him.

Learned counsel for the petitioners submit that in compliance of order dated 01.09.2022 and 25.08.2022, both the petitioners have joined investigation and cooperated with the investigating agency.

Learned State counsel on instructions does not dispute the factum of the petitioners having joined investigation and cooperated with the investigating agency. Learned State counsel assisted by learned senior counsel for the complainant, however, submits that since the forged partnership deed has still not been handed over to the investigating agency and only a photocopy of the said partnership deed has been given to the bank, the custodial interrogation of the petitioners would be required in the case in hand.

Learned counsel appearing for the petitioners have on the contrary reiterated that whatever documents were in their possession stand duly handed over to the investigating agency during investigation. Learned counsel for the petitioners also submit that the petitioners besides joining investigation and cooperating with the investigating agency have also given samples of their signatures and handwriting before the Trial Court.

I have heard learned counsel for the parties and perused the relevant material on record.

As per allegations, the petitioners forged the signatures of the complainant in the year 2016, and opened a bank account which

resulted in wrongful loss to the complainant. Besides this allegedly the petitioners fabricated a partnership deed in 2019 and excluded the complainant from it as a result of which the complainant did not receive his due amount from the firm for some years. On the basis of the forged partnership deed, the petitioners applied for a loan in a bank which was neither sanctioned nor any money disbursed pursuant thereto.

No doubt, in case an accused does not cooperate with the investigating agency, an adverse inference can be drawn against him. While extending or denying the extraordinary concession of anticipatory bail to the accused, the possibility of the accused fleeing from justice, or repeating the offence or some other offence must be considered. However, at the same time the State must spell out as to in what manner has the accused failed to cooperate in the investigation. Merely because there has been non-recovery of the alleged forged partnership deed, it may not by itself be a ground for denial of bail to the petitioners. Admittedly, there are a number of civil disputes pending between the parties including a civil suit for rendition of accounts filed by the complainant. Still further, it is a matter of record that the handwriting samples as well as the signatures of the petitioners have been given before the Trial Court.

In view of the above, the petitions are allowed and interim orders dated 01.09.2022 and 25.08.2022, are made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

30.01.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No