

CRM-M-2476-2024
Date of decision: 22.02.2024

...PETITIONER

V/S

...RESPONDENT

Present: Mr. Parminder Singh, Advocate for the petitioner.
Mr. Sandeep Kumar, DAG, Punjab.
Mr. Rajiv Joshi, Advocate for complainant.

HARPREET SINGH BRAR J. (ORAL)

Through instant petition, the petitioner is seeking anticipatory bail in case FIR No.36 dated 06.08.2023 registered under Section 406/420/120-B of Indian Penal Code at Police Station Block Majri, District SAS Nagar.

2. On 18.01.2024, following order was passed:

“The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.36 dated 06.08.2023 under Sections 406/420/120-B of IPC registered at Police Station Block Majri, District SAS Nagar (Annexure P-1).

Learned counsel for the petitioner inter alia contends that the present dispute pertains to agreement to sell dated 02.12.2020. The complainant has already instituted a suit for specific performance on 09.07.2021 and the dispute is purely civil in nature which has been given a tinge of criminality. The culpable intention to cheat from the very inception is missing. The maximum sentence under the offence in which the FIR is lodged is punishable upto seven years. He further submits that the petitioner was never served with the notice under Section 41-A of Cr.P.C.

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Addl.A.G., Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

Mr. Rajiv Joshi, Advocate puts in appearance on behalf of the complainant and filed his memorandum of appearance which is taken on record. Registry is directed to tag the same at an appropriate place in the file. He vehemently opposes the grant of anticipatory bail on the ground that from the very inception, the petitioner had the intention to cheat which is duly established on the face of record.

In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in Satender Kumar Antil Vs. CBI (2022) 10 SCC 51; Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2010 SCC OnLine SC 137; Gurbaksh Singh Sibbia etc. Vs. State of Punjab (1980) 2 SCC 565, Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Sushila Aggarwal Vs. State of NCT Delhi 2020 (1) RCR (Criminal) 833, at the first instance, the petitioner is directed to appear before the Investigating Officer within two weeks from today and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating/Arresting Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 22.02.2024.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court."

4. Learned State counsel, on instructions from ASI Paramjit Singh, submits that in compliance of order dated 18.01.2024, passed by this Court, the petitioner has joined the investigation and is not required for further custodial interrogation.

5. Keeping in view the statement made by learned State Counsel the order dated 18.01.2024, is made absolute. The petitioner shall abide by the terms and conditions enumerated in Section 438(2) Cr.P.C.

6. The petition is accordingly allowed.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and trial Court shall proceed without being prejudiced by observations of this Court.

February 22, 2024
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |