

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

208

CRM-M-5626-2022

Date of decision: 15.01.2024

Itpal Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kanwal Goyal, Advocate
for the petitioners.

Mr. Arun Luthra, DAG, Punjab.

Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate,
Mr. Kanisk Sarup, Advocate and
Mr. Tarunjot Singh Sidana, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.06 dated 13.01.2022 under Sections 406/420/120-B of the IPC, registered at Police Station Maqsudan, Jalandhar.

2. On 10.02.2022, while noticing the following submissions made by the learned counsel for the petitioners, a Coordinate Bench of this Court had granted the concession of interim bail to the petitioners and asked them to join investigation:-

“Counsel for the petitioners inter alia contended that one agreement to sell was executed between the parties on 20.9.2012. The petitioners are the proposed sellers and time for execution of sale deed was extended from time to time and finally, it was extended till 15.6.2015

and thereafter, there was no further extension of time for execution of the sale deed. It is further submitted that the complainant lodged first complaint dated 17.8.2017 against the petitioners alleging that they committed fraud but the same was filed on the ground that the dispute is of civil nature only and that even the second complaint lodged with the police by the complainant on 22.1.2020 was also filed giving same reason. It is further contended that the present FIR has been lodged on the basis of third complaint lodged by the complainant on 3.5.2021. Counsel for the petitioners further contended that no suit for specific performance of agreement to sell dated 20.9.2012 was ever filed by the complainant party. He prays for interim relief in light of dictum of Hon'ble Supreme Court in Mitesh Kumar J. Sha v. State of Karnataka and others 2021 (4) RCR (Criminal) 573 wherein it was observed that mere breach of contract cannot give rise to criminal prosecution unless dishonest intention is shown right at the beginning of the prosecution. Counsel for the petitioners submits that there is nothing on record to show that there was any dishonest intention on the part of the petitioners at any point of time.”

3. Learned counsel for the petitioners submits that in compliance of order dated 10.02.2022, the petitioners have joined investigation and cooperated with the investigating agency.

4. Learned State counsel assisted by learned senior counsel for the complainant, on instructions from ASI Kewal Singh, does not dispute the factum of the petitioners having joined investigation. However, learned State counsel has submitted that the petitioners have not fully cooperated with the investigating agency.

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

6. Mere non-cooperation of the petitioners as per the wish of the investigating agency cannot be made a ground to deny them the extraordinary concession of anticipatory bail coupled with the fact that the petitioners have already joined investigation.

7. In view of the above, the petition is allowed and interim order dated 10.02.2022, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

15.01.2024

(MANJARI NEHRU KAUL)

Vinay

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No