



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(208)

CRM-M-31471-2024
DATE OF DECISION: 27.08.2024

Mulkhtiar Mohammad and anotherPetitioners

VERSUS

State of PunjabRespondent

CORAM HON’BLE MR.JUSTICE KULDEEP TIWARI

Present Mr.Amrit Pal Singh, Advocate,
for Mr. Jagjit Singh Gill, Advocate,
for the petitioners.

Mr.Sahil R. Bakshi, AAG, Punjab.

Mr. Manoj K. Pundir, Advocate, for complainant.

KULDEEP TIWARI, J (ORAL)

1. On 05.07.2024, this Court had passed the hereinafter extracted order,
upon the instant petition:-

“1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioners have sought the concession of anticipatory bail, in case FIR No.19 dated 18.04.2024, under Sections 406 and 420 of the IPC, registered at P.S. Block Majri, District S.A.S. Nagar.

2. The learned counsel for the petitioners, in his asking for the relief (supra), has submitted that a civil dispute has been camouflaged as a criminal litigation. In fact, the petitioner and the complainant had good acquaintance and the complainant used to lend money to the petitioner, which he returned as per the schedule fixed between them. The agreement to sell dated 20.09.2021 was executed between the parties only as a security/guarantee document in respect of a loan of ₹ 10,00,000/- received by the petitioner from the complainant. However, the complainant has, with a malafide intent to grab the petitioner’s house, misused the agreement (supra) and initiated criminal proceedings against him. Moreover, the petitioner



has also filed a civil suit, which is pending consideration before the learned civil court concerned.

3. Lastly, the learned counsel for the petitioner has submitted that, even if the allegations are taken to be a gospel truth, yet the custodial interrogation of the petitioner is not required, as the case is based upon documentary evidence.

4. At this stage, Mr. Manoj K. Pundir, Advocate, has recorded his appearance on behalf of the complainant, under a memorandum of appearance instituted before this Court today, and, as prayed for, he is permitted to file a validly executed Vakalatnama in his favour by the respondent concerned on or before the subsequent date of hearing.

5. The learned counsel for the complainant has opposed the grant of anticipatory bail to the petitioner, on the ground that, the petitioner has cheated the complainant by, post execution of the agreement to sell (supra), entering into another antedated agreement to sell of his house in favour of third party, just to defeat the right of the complainant. He has also denied the existence of any previous loan transactions between the petitioner and the complainant.

6. Notice of motion for 27.08.2024.

7. Mr. Pardeep Bajaj, D.A.G., Punjab, accepts notice on behalf of respondent-State of Punjab.

8. Be that as it may, since (i) the dispute is prima facie civil in nature; and (ii) the entire case is based upon documentary evidence; this Court deems it appropriate to grant the asked for relief to the petitioner.

9. Therefore, the petitioner is directed to join the investigation and to appear before the investigating agency, as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Cr.P.C.”

2. Today, the learned State counsel, at the very outset, on instructions imparted to him by ASI Avtar Singh submits that though the petitioners had joined investigation and fully cooperated with the investigation process but recovery of Rs.10,00,000/- is yet to be effected from the petitioners, which is allegedly the cheated amount.



3. Since the petitioners have joined investigation and fully cooperated, therefore, merely because the cheated amount has not been recovered, the relief of anticipatory bail cannot be declined.

4. The instant petition for grant of anticipatory bail cannot be converted into a suit for recovery. The allegations which are made in the instant FIR are yet to be established by the prosecution during the course of trial. Therefore, the extracted interim order dated 05.07.2024, is hereby made **absolute**, subject to the hereinafter extracted conditions:-

- “(i) the petitioners shall not commit an offence similar to the present offence;
- (ii) the petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- (iii) the petitioners shall make themselves available for interrogation by a police officer as and when required.”

5. This order should not be treated as “blanket” order. It will not be read granting petitioners indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

6. Needless to say that anything observed hereinabove shall not be construed to be an opinion on the merits of the case.

27.08.2024
mamta

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No