

206 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM M-33868-2023 (O&M)
Date of Decision: 12.02.2024

Neeraj Jain and another Petitioners

Versus

State of PunjabRespondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Manish Jain, Advocate and
Mr. Manav Jain, Advocate,
for the petitioners.

Ms. Avneet, AAG, Punjab
assisted by ASI Dharampal.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short “Cr.P.C”) for grant of pre-arrest bail to the petitioners in FIR No.98 dated 15.06.2021 registered under Sections 420 & 120-B IPC at Police Station, Punjab Agriculture University (PAU), District Ludhiana.

2. Allegations are that petitioners fraudulently entered into agreement(s) with complainant Tinesh Gupta for sale of properties situated at Ludhiana and received earnest money, but did not execute the sale deed(s).

3. A Coordinate Bench of this Court vide order dated 17.07.2023, granted interim bail to petitioner and the same reads as under:-

“1. This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR mentioned below :-

FIR No.	Date	Police Station	Sections
98	15.06.2021	Punjab Agriculture University (PAU), District Ludhiana	420, 120-B, IPC, 1860

2. As per the case set up, the petitioners (Neeraj Jain and Manisha Jain) entered into agreements to sell with Tinesh Gupta (respondent No.2) for the properties in Ludhiana. The earnest money was received but the sale deed was not executed. In the enquiry it was found that the petitioners had availed loans against the properties and the loan accounts were declared NPA.

3. Learned counsel for the petitioners submits that a civil litigation is pending between the parties qua the properties. The possession of the property is with the complainant and there is interim order in favour of the complainant in civil suit. The contention is that the petitioners are not involved in any other case and the dispute is civil in nature.

4. Notice of motion.

5. Learned State Counsel accepts notice on behalf of the State/respondent No. 1. and seeks time to have instructions.

6. In the meantime, keeping in view the facts and circumstances of the case and the fact that the civil litigation is pending between the parties, arrest of the petitioners is stayed subject to their joining investigation within a week. In the event of arrest, they shall be released on bail subject to their furnishing adequate bail bonds to the satisfaction of the Investigating Officer. They are directed to join the investigation as and when called for. They shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

7. List on 4.8.2023.”

4. Learned counsel on instructions from petitioners submits that in pursuance of the aforesaid order, they have joined investigation, therefore, their custodial interrogation is not required.

5. The above factual position is duly acknowledged by learned State Counsel, on instructions from quarter concerned and fairly submitted that

6.

In view of above, interim order dated 17.07.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
7.

It is also made clear that petitioners shall fully co-operate with the Investigating Officer as and when called for further investigation.
8.

The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
9.

Disposed off accordingly.
10.

Pending criminal misc. application(s), if any, shall also stand disposed off.

12.02.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No