

**101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Neutral Citation No. **2024:PHHC:033405**
CRM-M-48900-2023
Date of Decision: March 07, 2024

Nitin Kumar and others **...Petitioners**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. G.C. Shahpuri, Advocate for the petitioners.
Mr. Parveen Kumar Aggarwal, DAG, Haryana.

DEEPAK GUPTA, J.(Oral)

By way of present petition filed under Section 438 Cr.P.C., petitioner prays for pre-arrest bail in case FIR No.114 dated 12.06.2023, under Section 379 IPC, registered at Police Station Buria, District Yamuna Nagar.

2. The FIR was lodged on the complaint of Smt. Suresho W/o Amar Singh, as per which she had a joint agriculture land, on which wooden logs were lying. It was alleged that said wooden logs had been stolen by the accused (petitioners), who loaded the same in their trolley and sold the same in the market.

3. Contention of learned counsel for the petitioners is that petitioners have been falsely implicated; that civil dispute regarding the property in question was decided in favour of petitioner No.4 and presently, that dispute is pending before this Court by way of RSA No.4102 of 2024. Further contention of learned counsel is that there is no evidence to show that petitioners had removed the wooden logs and that they are ready to join the investigation.

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4. Opposing the bail petition, learned State counsel has drawn attention towards the status report, as per which petitioners were called by serving notice under Section 41-A Cr.P.C., so as to join investigation, but they did not do so. It is further reported that as per the investigation conducted, it is the petitioners, who had unlawfully removed 40 popular trees lying in the land measuring 9 kanals - 5 marlas, which were planted by the complainant in land comprised in Rect. No.2 Khasra No.17 and 18, situated in village Alipura, Tehsil Chhachhrauli, District Yamuna Nagar and then sold the same. As per the status report, the trees and the tractor trolley in which the said trees were taken away, are to be recovered.

5. In the supplementary status report as filed by the respondent-State, copy of the compromise (Annexure R-1) has also been placed on record, which compromise was effected between Rajpal Singh (petitioner No.4) and Rajiv Kumar, the son of complainant, as per which there used to be disputes between the parties with regard to 15 kanals and 12 marlas of land, regarding which even the cases were pending in the Courts and that a mutual agreement had been entered.

6. As per para No.4 of the said compromise, the two parties were equally owner and possessor of 15 kanals and 13 marlas of land comprising Rect. No.2, Khasra No.17 and 18; and Rect. No.8, Kharsa No.19/1 in a village Alipura. It was further agreed that first party and its brothers had given their share to the second party and in exchange thereof, the second party had given half of its share, out of its share from

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somewhere else. However, most important part of clause in the compromise is that second party had planted the trees and it was entitled to cut those trees for which first party will have no objection. The second party to this compromise is Rajiv Kumar, i.e. the son of complainant Smt. Suresho and thus, it is the complainant party, which was entitled to cut the trees lying in the land in dispute.

7. In view of the aforesaid terms of compromise, it does not lie in the mouth of the petitioners that they have been falsely implicated in the FIR or that nothing is to be recovered. The recourse to the civil litigation as pointed out by learned counsel for the petitioners, is also of no advantage to them, having regard to the terms of the compromise. The said compromise has also been referred by the Court of learned Addl. Sessions Judge, Yamuna Nagar while dismissing the similar petition of the petitioner in the order dated 21.09.2023.

8. The custodial interrogation of the petitioners may be required in order to effect the recovery of trees belonging to the complainant party cut by them along with the tractor trolley, which was used to carry the same. This Court does not find it a fit case for granting the benefit of pre-arrest bail.

Dismissed.

March 07, 2024

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**(DEEPAK GUPTA)
JUDGE**

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