

CRM-M-1103-2015 (O&M)

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

**CRM-M-1103-2015 (O&M).
Decided on: September 18, 2015.**

Jatinder Kumar and another

.. Petitioner(s)

VERSUS

State of Punjab

.. Respondent(s)

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CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

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**PRESENT Mr.K.S.Dadwal, Advocate,
for the petitioners.**

Mr.R.S.Randhawa, Addl. A.G., Punjab.

M.M.S. BEDI, J. (ORAL)

The petitioners are contractors who have allegedly committed financial fraud by misappropriating the public fund by receiving excess amount against the public works done at three different places for laying interlocking tiles instead of cement tiles. The petitioners had been issued notice on 7.11.2014, alleging that excess payment of Rs.2.63 lacs had been made to the petitioners instructing the petitioners to deposit a sum of Rs.2.63 lacs with the the Municipal Council, Dasuya, within 15 days but before the expiry of said 15 days, the present FIR was registered on 11.11.2014. In the interest of justice, a Coordinate Bench of this Court vide interim order had given an opportunity to the petitioners to complete the assigned work by laying paver blocks vide order dated 24.4.2015.

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A controversy is still being raised by the officials of the Municipal Council, Dasuya, regarding the quality of the material being used and the standards of the work done by the petitioners. Hardev Singh, present Executive Officer of Municipal Council, Dasuya, has appeared in the Court pursuant to the orders passed by this Court and informs that the work done by the petitioners is not upto the mark.

Taking into consideration all the above said circumstances, I am of the opinion that a balance is required to be struck between the right of liberty of the petitioners and the right of the Municipal Council to get the work done as per the terms of the contract between the parties.

Without entering into the controversy regarding the performance of contractual obligations by both the sides, since the petitioners have already deposited the amount of Rs.2.63 lacs and Rs.3.65 lacs, pursuant to notices Annexures P8 & P9, as per the undertaking given by them in this Court at the time of first hearing of the petition, they can be granted the concession of pre-arrest bail without prejudice to the rights of the petitioners to seek adjudication of their respective claims in accordance with the provisions of law. The petitioners have already joined investigation. It does not appear to be a case of custodial interrogation.

The petition is allowed. It is ordered that in case of arrest of the petitioners, they will be released on bail to the

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satisfaction of the arresting officer subject to the following conditions:

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(i) that the petitioners will join investigation as and when required;

(ii) that the petitioners will not tamper with the evidence or hamper investigation, in any manner; and

(iii) that the amount of Rs.6.28 lacs deposited with the Registry may be disbursed in favour of the Municipal Council without prejudice to the rights of the petitioners to recover the same by establishing their respective claim for the work done or the material used in accordance with law and the provisions of contract between the parties.

It will be open to the Municipal Council to utilize the amount for the purpose which is subject matter of the FIR subject to final settlement between the parties.

Nothing mentioned in this order will prejudice the rights of the petitioners to claim any dues in accordance with provisions of law, if any, from the Municipal Council.

(M.M.S.BEDI)
JUDGE

September 18, 2015.
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