

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

CRM-M-11804-2014 (O&M)

Date of Decision: 05.02.2015

Srilekha Raj Reddy and another

....Petitioners

Vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr. Sandeep Verma, Advocate
for the petitioners.

Dr. Sushil Gautam, DAG, Haryana

Mr. Yogesh Saini, Advocate for
Mr. Rajesh Pal, Advocate
for the complainant.

Amol Rattan Singh, J (Oral)

It needs mention at the outset, that since this case was still pending despite cancellation of the interim bail, learned counsel for the petitioners submits that the bar under Section 362 of the Cr.P.C. would not operate, since the case had not been disposed of.

This Court, vide order dated 25.11.2014, had ordered the cancellation of the interim bail earlier granted to the petitioners vide order dated 03.04.2014, on the ground that the petitioners had not surrendered their passports as had been directed by this Court while extending the interim bail, vide order dated 15.09.2014 and had, as a matter of fact, misstated to this Court, with regard to their passports, as noted in the order dated 25.11.2014.

In fact, as per the order cancelling their bail, it was specifically

stated that though the complainant had no objection to extension of the bail granted to the petitioners dated 08.12.2014, so as to enable them and the Managing Director of the company to make efforts to obtain the machinery ordered by the complainants' firm and for which Rs.1.55 crores were taken in advance by the company, of which the petitioners are Directors, however, since the petitioners had projected before this Court that in the case of petitioner No.1, she had lost her passport, consequent upon which it was not surrendered and petitioner No.2 had stated that she does not have a passport, whereas, as a matter of fact, she did have one, hence they do not deserve to be extended the concession of bail.

Though that situation has obviously not changed, inasmuch as, the statement made on behalf of petitioner No.2 is very much on record to state that she does not have the passport, whereas actually upon verification by the investigating agency, it was found that a passport had been issued to her, however, learned counsel for the petitioners submits that petitioner No.2 is disabled to the extent of 90%, as can be seen from the certificate issued by the Medical Board constituted by the Government of Andhra Pradesh, on 01.12.2009, a copy of which has been annexed as Annexure P-6 with CrI. Misc. No.M-38678 of 2014.

Upon query, the factum of the disability of petitioner No.2 is not denied by the respondent-State or by the counsel for the complainant.

In view of the above, despite the fact that petitioner No.2 has obviously perjured before this Court by stating that she did not have a

passport, whereas she actually possessed one, taking into account her admitted disability and the fact that, admittedly, the complainant had no direct dealings with her, which would implicate her, at least prima facie in the opinion of this Court, in the alleged fraud committed upon the complainant, taking cognizance of her physical condition, she is directed to be admitted to bail, in case she is sought to be arrested, subject to her now surrendering her passport, in respect of which she is stated to have moved an application before the trial Court at Ambala.

In the event of her arrest, she would be released on bail, on her furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaq Magistrate, subject to her further complying with the provisions of Section 438 (2) Cr.P.C.

However, keeping in view her condition of disability, her interrogation would be done in a manner so as to ensure that she is not unnecessarily troubled.

As regards petitioner No.1, though she is again stated to have no overt role in the transactions between the complainant and the company of which she is a Director, I find no mitigating circumstances to grant her anticipatory bail, after it had been cancelled, in view of the fact that she had stated that she had lost her passport and hence could not surrender it, as was subsequently projected before this Court, upon the application for cancellation of bail having been moved. Had she actually lost the passport, this Court would have been apprised of that fact, either at the time

when the order extending interim bail was passed subject to the condition of surrender of the passport, or an appropriate application would have been moved immediately thereafter.

Having said that, keeping in view the fact that she too is not stated to be in any direct involvement in the transaction in question, between her company and the complainant, whatsoever has been observed herein above, would be only taken as an observation with regard to an application moved under Section 438 of the Cr.P.C. and would not preclude bail if it otherwise, in the opinion of the trial Court, is due to her, if an application is moved under Section 439 Cr.P.C. If such an application is moved, the same would be decided by the trial Court very expeditiously.

Petition disposed of.

February 05, 2015
vcgarg

(Amol Rattan Singh)
Judge