

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-13187 of 2015

Date of Decision: November 18, 2015

Pawan Kumar Pasricha

.....Petitioner

Vs.

State of Haryana

.....Respondent

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

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Present:- Mr. R.K. Gupta, Advocate
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Mr. D.S. Adlakha, Advocate
for the complainant.

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M.M.S. BEDI, J.

Petitioner seeks the concession of pre-arrest bail in a case registered at the instance of Sanjiv Kumar, complainant alleging that the petitioner has played fraud with the complainant and cheated him. A sum of Rs. 25 lacs was allegedly received by the petitioner for transferring his 1/5th share in land measuring 15 kanal 9 marlas in the company M/s Hiteshwari Paper Moulding Pvt. Ltd. The allegation against the petitioner is that though

the money had been received on the basis of the agreement dated June 12, 2012 but the share of the company had actually been transferred in favour of Avtar Singh, thus causing wrongful loss to the complainant.

Learned counsel for the petitioner has vehemently urged that the complainant has also filed a civil suit against the petitioner, Avtar Singh and others seeking a decree for enforcement of the agreement of sale dated June 12, 2012 executed between the petitioner and the complainant in respect of the same 2160 share holding in M/s Hiteshwari Paper Moulding Pvt. Ltd and 1/5th share in the land mentioned in heading of the plaint measuring 15 kanal 9 marlas.

I have gone through the contents of the plaint wherein the complainant has admitted that in part performance of the agreement he had given physical possession of the factory and he has been using the same.

Counsel for the complainant has intervened to oppose the petition for pre-arrest bail contending that there is an overwhelming evidence on the record indicating that the shares have actually been transferred by the petitioner to Avtar Singh. The stand of the petitioner before this Court as well as before the Civil Court in his written statement is that the complainant had been introduced to the petitioner by one Het Ram who happens to be one of the Directors of M/s Hiteshwari Paper Moulding Pvt. Ltd. There are four other Directors including the petitioner. The petitioner was having shareholding to the extent of 1/5th share i.e. 2160 share in the said Company. On the date of entering the sale agreement, the

petitioner made it clear to the complainant that he had resigned from the Directorship of the Company and was interested to sell his 1/5th share holding in the Company and consequently the sale agreement dated June 12, 2012 was entered into between the parties. The petitioner had received a sum of Rs.25 lacs and executed share transfer form, affidavit and handed over all the relevant papers in his possession to the complainant.

Petitioner claims that after entering into sale agreement, the complainant never approached the petitioner nor he refused to transfer his share in the name of the complainant as per terms of the agreement dated June 12, 2012. The petitioner has urged that after entering into the agreement of sale dated June 12, 2012 in favour of the complainant, he came to know that 1/5th share holding of the petitioner had further been transferred in favour of Het Ram, one of the Directors of the Company for valuable consideration. There is lot of litigation pending between Het Ram and complainant Sanjiv Kumar in different Courts. Petitioner claims that he has not entered into any direct transaction with Avtar Singh.

A perusal of the record indicates that the complainant is also involved in few cases of cheating and that for enforcement of legal rights, the complainant has availed the legal remedy under civil law also. Liability in the present case being a mixed liability of civil and criminal nature; and the petitioner having joined investigation; he can be granted the concession of pre-arrest bail.

Petition is allowed and it is ordered that in case of arrest of the petitioner he will be released on bail to the satisfaction of the arresting officer subject to the conditions that he will join investigation as and when required by the police and he will not tamper with the evidence or hamper the investigation in any manner. Nothing said in this order will prejudice the rights of the complainant or any other party in civil litigation which is pending.

November 18, 2015
sanjay

(M.M.S.BEDI)
JUDGE