

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

**Criminal Misc. No. M-30638 of 2014
Date of Decision: 19.5.2015**

Lovely @ Umrao Singh

--Petitioner.

Vs.

State of Haryana

--Respondent.

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. P.S.Ahluwalia, Advocate
for the petitioner.

Mr. Ashish Yadav, Additional A.G. Haryana.

Mr. M.K.Garg, Advocate
for the complainant.

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioner seeks pre-arrest bail in FIR No. 89 dated 22.3.2014 under Sections 406/420 IPC, registered at Police Station City Kaithal, District Kaithal.

Notice of motion was issued and interim protection was granted.

Learned counsel for the petitioner, while placing reliance on two judgments of the Hon'ble Supreme Court in Hotline Teletubes and Components Ltd. and others Vs. State of Bihar and another.

2005 (10) SCC 261 and Veer Prakash Sharma Vs. Anil Kumar Agarwal and another, 2007 (7) SCC 373 submits that at the most, it was a money claim arising out of a business transaction between the parties. Offence under Section 420 IPC was not made out. He further submits that to show his bonafide, petitioner has paid an amount of ₹8 lacs and was not running from his financial liability, if any. He concluded by submitting that petitioner has also joined the investigation and cooperated with the investigating agency. He prays for allowing the present petition.

Learned counsel for the State, on instructions from SI Inder Singh, submits that although the petitioner has joined the investigation and but he did not cooperate with the investigating agency. He further submits that entire amount has not been paid by the petitioner. He prays for dismissal of the present petition.

Similarly, supporting the arguments raised by the learned counsel for the State, learned counsel for the complainant submits that petitioner is not entitled for anticipatory bail, because he has committed fraud with as many as 38 persons. Learned counsel for the complainant fairly states that although talks of compromise were going on between the parties, but modalities thereof could not be finalised. Placing reliance on the the judgments of the Hon'ble Supreme Court in S.W.Palanitkar Vs. State of Bihar, 2001 AIR (SC) 2960; M/s Medohl Chemicals & Pharma Pvt. Ltd Vs. Biological E. Ltd., 2000 AIR (SC) 1869 and G.V.Rao Vs. L.H.V. Prasad 2000 AIR (SC) 2474, learned counsel for the complainant prays for dismissal of the petition.

Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, petitioner has been found entitled for the concession of anticipatory bail. It is so said, because the petitioner has shown his bonafide by paying an amount of ₹8 lacs. It has been further stated on behalf of the petitioner that he is not running from his remaining financial liability, as well. This seems to be the reason that parties rightly thought it appropriate to settle the matter amicably.

Learned counsel for the petitioner as well as learned counsel for the complainant are ad idem that talks of compromise had been going on between the parties.

So far as the judgments relied upon by the learned counsel for the complainant are concerned, there is no dispute about the law laid down therein. However, close perusal thereof would show that none of them is of any help to the complainant, being distinguishable on facts. Further, it is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

On the other hand, learned counsel for the petitioner has been justified in placing reliance on the abovesaid two judgments of

the Hon'ble Supreme Court, which clearly go in favour of the petitioner.

Without commenting any further on the merits of the case, lest it should prejudice the rights of either of the parties and keeping the scope of an amicable settlement open, present petition is allowed. Order dated 24.9.2014 passed by this Court is hereby made absolute, however, subject to the conditions envisaged under Section 438 (2) Cr.P.C.

Disposed of, accordingly.

(RAMESHWAR SINGH MALIK)
JUDGE

19.5.2015
AK Sharma