

**Sr. No. 210
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM No. M-38715 of 2015 (O&M)

Date of Decision: 17.12.2015

Prem Chand Gupta

--Petitioner

Vs

State of Punjab

--Respondent

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Kanwalvir Singh Kang, Advocate,
for the petitioner.

Mr. D.S.Virk, AAG, Punjab.

Mr. Amit Chaudhary, Advocate,
for the complainant.

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioner seeks pre-arrest bail in FIR No.99 dated 16.09.2015 under Sections 409 and 420 of Indian Penal Code registered at Police Station Kotwali Nabha, Patiala.

Notice of motion was issued and interim protection was granted to the petitioner.

Learned counsel for the petitioner submits that in compliance of the order 10.11.2015, passed by this Court, petitioner has joined the investigation and co-operated with the investigating agency. He further submits that custodial interrogation of the petitioner is not required. He prays for allowing the present petition.

On the other hand, learned State counsel on instructions from ASI Buta Singh, Police Station Kotwali Nabha, Patiala as well as learned counsel for the complainant submit that since the stolen site

plan is yet to be recovered from the petitioner, he is not entitled for concession of anticipatory bail. They pray for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that petitioner has been found entitled for concession of anticipatory bail at the hands of this Court,

A bare perusal of the Annexures P-5 to P-7 would show that regarding an identical allegation, complaint of the present complainant has been dismissed by the learned trial Court vide order dated 27.07.2015. Thereafter, although there was no occasion for instant FIR, yet it came to be registered against the petitioner. In such a situation, it shall be debatable issue before the learned trial Court as to whether the petitioner, as a matter of fact, has committed offence alleged against him or not.

In view of the above and without commenting anything further on the merits of the case at this stage, lest it should prejudice the rights of either of the parties at a later point of time, instant petition is allowed and the order dated 10.11.2015, passed by this Court is, hereby, made absolute, however, subject to the conditions under Section 438(2) Cr.P.C.

Disposed of accordingly.

(RAMESHWAR SINGH MALIK)
JUDGE

17.12.2015