IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21063-2016
CRM-M-21717-2016
CRM-M-21393-2016
Date of decision: September 20, 2016.

Sunil Kumar,
Parveen Kumar &
Naveen Kumar

... **Petitioners**

v.

State of Haryana

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Vikrant Pujara, Advocate for the petitioners.

Shri Chetan Sharma, Assistant Advocate General, Haryana.

A.B. Chaudhari, J. (Oral):

These three petitions for grant of anticipatory bail are being disposed of by this common order.

In support of the petitions, Learned Counsel for the petitioners submitted that the petitioners herein were merely the employees of the Umeed Cooperative Producer Company Limited, therefore, they were not concerned with the alleged fraud committed by the Company. The Company is run by the owners thereof and the petitioners being employees could not be held responsible for the alleged act of fraud in respect of which complaint was made and FIR was registered by the police. Learned Counsel for the petitioners further contended that at any rate the petitioners have joined the investigation pursuant to the interim order made by this Court on

14.6.2016 and have cooperated with the investigating machinery. There is no reason why the relief of anticipatory bail should not be granted to them.

Per contra, Shri Chetan Sharma, learned Assistant Advocate General, Haryana has opposed the application for grant of anticipatory bail and submitted that the petitioners had collected the amount from the public at large and had indulged in big fraud thereby putting investors and the public at large to a great financial loss. According to him, the petitioners have not at all cooperated with the Investigating Officer and the complete records regarding the scheme, receipts of collection of money and all other ancillary things are required to be seized from them and, therefore, their custody is essential. Learned Counsel for the State then submitted that in the absence of collection of documents from the employees/petitioners, the investigation would be hampered. He, therefore, prayed for dismissal of the applications.

I have heard Learned Counsel for the rival parties at length. I have perused the reply filed by the respondent-State. I have perused the reasons recorded by the learned trial Judge for rejecting the application for anticipatory bail. Following is the reason given by the trial court for rejecting the application for grant of anticipatory bail:-

> *"From the bare perusal of the objects of the company stated in its Memorandum of Association, it can be gathered that the above scheme of collecting money from the people by way of periodical instalment and then by drawing lot giving prize to its member, does not come in its object. The same tantamounts to cheating innocent people and dishonestly carrying out activities in contravention of its objects stated in Memorandum of*

Association. This act of cheating is further compounded by the fact that in the draw of lot, prize is given to the persons who have ceased to be members. In the case in hand, main accused are yet to be arrested. The accused-applicants if released on bail may hamper the investigation of the case by tampering evidence. ...”

In so far as the reply is concerned, it would be appropriate to quote the relevant extracts in para 3 and 4 thereof, which read thus:-

“... He was working as Computer Operator in the Umeed Co-coperative Producer Company Limited and used to keep the record of the investors and other data. He declared the draw at the instructions of co-accused Parveen and shown a car to be won by Parmod/complainant. During the course of investigation the statement U/s 161 Cr.P.C. of witnesses Ombir S/o Jaipal R/o Village-Asanda, Distt.-Jhajjar (member vide receipt No.003859 and 003884), Surender S/o Satpal R/o Village- Mondothi (member vide receipt No.003878 and 003879), Sandeep S/o Mahender R/o Sampla (member vide account No.UUY-004-00013384), Raja S/o Raghbir R/o Village-Ismaila, Distt. Rohtak and Ashok Kumar Gosai, Manager, P.N.B. Sampla, Manager, HDFC Bank, Sampla were recorded and the record of the receipts of membership and affidavit from the above members were collected. The petitioner has joined the investigation on 24.06.2016 and attendance register and joining letter were taken into possession. Now the arrest of the petitioner is essential to recover the registration details and documents of the society, but he is not co-operating in the investigation.”

“... The complete record regarding scheme, affiliation/registration of firm/company and record of investors etc. is in possession of the petitioner and other co-accused, so proper investigation of the matter the arrest of the petitioner is very essential. ...”

Looking to the above reply and the reasons recorded by the learned trial court for rejecting the bail application, in my opinion, the petitioners having been instrumental in commission of the fraud in question and the innocent investors having been duped, it would not be desirable to extend the relief of grant of anticipatory bail. In the result, all the three applications are dismissed.

[**A.B. Chaudhari**]
September 20, 2016. **Judge**
kadyan

Whether speaking/reasoned Yes/No
Whether reportable Yes/No