

Sr. No. 204

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

**CRM No. M-22577 of 2015 (O&M)
Date of Decision: 10.05.2016**

Arun Kumar and others

...Petitioners

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. A.K.Singh Goyat, Advocate,
for the petitioners.

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

Mrs. Anju Arora, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA. J (ORAL)

CRM No.15366 of 2016

Application is allowed, as prayed for.

Documents at Annexures P-10 and P-11 are taken on record. A complete set of the documents has been furnished to counsel for the complainant in Court today itself.

Application disposed of.

Main case

This order shall dispose of the instant petition filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioners in case FIR No.157 dated 03.11.2014, under Sections 420, 506, 120-B of Indian Penal Code, registered at Police Station

City Jalalabad, District Fazilka.

Counsel for the parties have been heard at length.

FIR came to be registered on the broad allegations that a defective machine for manufacture of interlocking tiles had been supplied by M/s. Continental Bricks and Allied Products situated in Industrial Area, Municipal Corporation, Raipur. Further allegations are that a sum of Rs.13 lacs had been given by the complainant by cheque in the account of the firm aforementioned and such amount having been misappropriated.

At the stage of preliminary hearing while issuing notice of motion and granting ad interim protection to the petitioners, contentions on behalf of the petitioners were noticed that they have nothing to do with the firm i.e. M/s Continental Bricks and Allied Products which is a proprietorship concern even though the premises are adjacent to that of the petitioners. Further case of the petitioners was that proprietor of such concern is one Sh. Prabhakar Pandey and with whom the present petitioners have no concern.

Counsel appearing for the petitioners has reiterated such submissions and further argues that essentially a civil dispute is sought to be given a criminal flavour. It is further contended that the entire money has gone into the account of Continental Bricks and Allied Products and as such the present petitioners cannot be held liable and are entitled to the concession of anticipatory bail.

Learned State counsel who is on instructions from HC Gurbax Singh has apprised this Court of certain relevant facts that have surfaced during the course of investigation. State counsel

submits that Sh. Prabhakar Pandey who was stated to be the proprietor of Continental Bricks and Allied Products and into which account the entire money had been deposited is none other than the real brother of petitioner No.2. State counsel during the course of hearing has even produced documents i.e. account statements taken from the Bank and which would show that an amount of Rs.13 lacs after deposit in the account of M/s Continental Bricks and Allied Products was immediately transferred into the account of Welcon Techno Engineers. The investigation agency has also collected a list of the persons in charge of management of Welcon Techno Engineers and in which the present petitioners i.e. Arun Kumar, Pushkal Tiwari and Diwanker Pandey are reflected as functionaries and integral part of the management. Even Pushkal Tiwari who was stated to be the sole proprietor of M/s Continental Bricks and Allied Products is part of the management of Welcon Techno Engineers.

Prima facie, this Court is of the view that the present petitioners as also Diwanker Pandey i.e. the sole proprietor of M/s Continental Bricks and Allied Products have acted in connivance and collusion to defraud the complainant.

The allegations are serious and would require a thorough probe.

The contentions raised on behalf of the petitioners which had led to the passing of the notice of motion order by this Court on 15.07.2015 to the effect that they have no concern whatsoever with Sh. Prabhakar Pandey have been found to be factually incorrect and misleading by the investigating agency.

This Court would have no hesitation in observing that the petitioners have made an attempt to even hoodwink this Court.

In the light of allegations raised by the complainant and keeping in view their conduct, the petitioners are not entitled to the concession of pre-arrest bail.

Petition is dismissed.

10.05.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**