

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Date of Decision: October 5, 2016

1. CRM M-23983 of 2016

Karan Rampal and another

.....Petitioners

Vs.

State of Punjab

.....Respondent

2. CRM M-25521 of 2016

Anand Kumar Rampal

.....Petitioner

Vs.

State of Punjab

.....Respondent

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

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Present:- Mr.Ranjan Lakhanpal, Advocate for the petitioners
in both cases.

Ms. Simsi Dhir Malhotra, DAG, Punjab.

Mr. J.S. Saini, Advocate
for the complainant.

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M.M.S. BEDI, J.

This order will dispose of two petitions bearing CRM M-23983
and M-25521 of 2016 for grant of pre-arrest bail in a case registered at the

instance of Renuka Sanjay Thakur alleging that the petitioners along with their co-accused have committed the act of fraud and cheating to usurp her property inherited by her after the death of her husband. As per the allegations, the petitioners along with others had floated a project in the name of Macro Homes Project for selling the plots after constructing flats in land measuring 6 kanals 10 marlas situated at Village Jandhpur, Desu Majra Road, Tehsil Kharar, District SAS Nagar, Mohali and issued pamphlets and brochures in various newspapers. They have received money from people for booking of the flats. The complainant was persuaded by the petitioners to invest with an offer that they would sell 2 BHK flats by constructing the same at Micro Apartment, Sunny Enclave, Jandhpur Road, Sector 125, Mohali for Rs.24 lacs after showing the structure of the same to the complainant on the spot. To convince her that they have already started the construction, an offer was given to the complainant for purchase of 10 flats with a promise that on paying advance payment and they would purchase the flats again from her and will return the advanced payment with additional amount. Persuaded by the false promise, the complainant became ready to purchase 10 flats and gave a sum of Rs.60 lacs as advance against six cheques of Rs.10 lacs each. The total price fixed was Rs.2.40 crores. An agreement for purchase and sale of the same was executed on August 4, 2014. The petitioners further promised that in case they failed to deliver the possession of these flats by February 5, 2015, they will take back these flats and return the amount of Rs.60 lacs and incentive amounting to Rs.5.40 lacs to the complainant. False promise was also made that in case of failure of the petitioners to give flats, they would return incentive of the aforesaid

amount i.e. Rs.5.40 lacs along with advance payment of Rs.60 lacs by February 5, 2015. Neither the construction of the flats started nor any incentive was returned. The complainant had been given three cheques of Rs.20 lacs each drawn on HDFC Bank with an assurance that the cheques would be cleared on presentation but when the cheques amounting to Rs.20 lacs each were presented for encashment in the bank in March 2015, only one cheque was encashed whereas the two cheques were dishonoured. The petitioners have obtained loan of Rs.1.75 crores from HDFC Bank against the property but the construction work has not been started. 117 flats had been sold to different persons against different agreements on receipt of money. On pursuing for the refund, the complainant had been threatened.

Petitioner Anand Kumar Rampal had been granted the concession of interim bail on July 28, 2016 on the ground that the petitioner had returned the sum of Rs.20 lacs and he was ready to return the remaining amount of Rs.45 lacs. On the basis of the undertaking given in the Court by petitioner Anand Kumar Rampal, interim bail was granted to him with a direction that he will join investigation along with bank draft of Rs.30 lacs in the name of the complainant which would be handed over by the investigating officer to the complainant without prejudice to her rights. Petitioner Anand Kumar Rampal did not comply with the undertaking given in the Court with an objective to seek interim bail but on September 7, 2016, petitioner Anand Kumar Rampal sought more time to comply with the order dated July 28, 2016 by offering a bank draft of Rs.8 lacs in the Court which was accepted by the complainant under protest. Believing the contention of petitioner Anand Kumar Rampal, the interim order was extended subject to

his again joining investigation on October 1, 2016 along with a bank draft of Rs.22 lacs in the name of complainant.

Meanwhile, the complainant filed an application bearing CRM 26482 of 2016 under Section 439 (2) Cr.P.C. for cancellation of bail granted to petitioner Anand Kumar Rampal on the ground that the accused has been able to get interim relief in about 8 cases by making false undertakings before the competent Courts in different parts of India. It was mentioned in the application that petitioner Anand Kumar Rampal is involved in 9 other FIRs and has been declared a proclaimed offender in FIR No. 471 of September 7, 2015 registered at Police Station Mayapuri, New Delhi in the Court of Metropolitan Magistrate, Tis Hazari Court, New Delhi vide order dated January 11, 2016.

It is pertinent to mention that petitioners Karan Rampal son and Rajni Rampal, wife of Anand Kumar Rampal filed a separate petition bearing CRM M-23983 of 2016 which was taken up on August 3, 2016. An undertaking was given that sum of Rs.15.40 lacs would be paid by September 7, 2016 by Anand Kumar Rampal as such petitioners Karan Rampal and Rajni Rampal were granted concession of interim bail vide order dated August 3, 2016. On September 14, 2016 undertaking was again given in the Court on behalf of petitioner Karan Rampal and his mother that balance amount of Rs.15.40 lacs will be paid but they did not opt to join the investigation. Vide order dated September 21, 2016, the interim protection to petitioner Karan Rampal and his mother was extended till October 4, 2016 with a specific direction that they would join investigation on October 1, 2016.

When the matter was taken up on October 4, 2016, State counsel on the instructions of the investigating officer informed this Court that the petitioners had neither joined the investigation nor they paid a sum of Rs.22 lacs.

Mr.Ranjan Lakhanpal, learned counsel for the petitioners has submitted that the petitioners are entitled to concession of pre-arrest bail as they do not have any intention to cheat the complainant. He also submitted that the petitioners had been ready and are still ready to discharge their liability, if any, after adjusting the amount already paid to the complainant. He also submitted that it is a case of civil liability for enforcement of the legal rights on the basis of an agreement and no criminal offence is made out. He did not deny the liability to re-pay the amount but submitted that the liberty of the petitioners deserves to be protected. Mr. Lakhanpal also placed on record a bank statement annexure P-6 of the account of M/s Kannan Associates which is a Company owned by petitioner Anand Kumar Rampal indicating that the complainant had received Rs.18 lacs by two transactions on July 31, 2014 which was debited to her on the said date and that the said amount was required to be adjusted in the payment to be made to complainant. Liability to the extent of Rs.27.50 lacs was admitted and a prayer was made for grant of more time to pay the money.

I have considered all the facts and circumstances of this case. Conduct of petitioners in the present case to seek interim protection by giving an undertaking to pay sum of Rs.22 lacs to the complainant and thereafter adopting evasive approach by putting forth fresh pleas compel this Court to believe that there are no extraordinary exceptional circumstances to

grant the concession of pre-arrest bail to the petitioner Anand Kumar Rampal. This case appear to be a combination of civil and criminal liability. As per judgment in **Lee Kun Hee and others Vs. State of UP and others**, (2012) 3 SCC 132 both the civil and criminal remedies are available to the complainant against the petitioners. Petitioner Karan Rampal is son of petitioner Anand Kumar Rampal. He along with wife of petitioner Anand Kumar Rampal had made a statement on August 3, 2016 through their counsel that payment of Rs.15.40 lacs would be made by September 7, 2016 by Anand Kumar Rampal but on account of conduct of Anand Kumar Rampal of having not fulfilled the undertaking and on account of the fact that he is involved in a large number of other criminal cases and has been declared a proclaimed offender, no extraordinary exceptional circumstances exist to grant the concession of pre-arrest bail to petitioners Anand Kumar Rampal and Karan Rampal who happens to be the associate of Anand Kumar Rampal in different business dealings of Hanumant Land Promoters Pvt. Ltd.

The petition bearing **CRM M-25521 of 2016 filed by Anand Kumar Rampal is hereby dismissed**. Interim order is vacated.

The petition bearing CRM M-23983 of 2016 filed by petitioners Karan Rampal and Rajni Rampal is **dismissed qua petitioner No.1-Karan Rampal**. So far as petitioner No.2 Rajni Rampal is concerned, she is a lady. Her specific role in the money transactions with the complainant appears to be a debatable issue. She no doubt has not joined investigation but her liberty can be protected.

The petition bearing CRM M-23983 of 2016 is **allowed qua petitioner No.2 Rajni Rampal** and it is ordered that in case of arrest of petitioner No.2 Rajni Rampal she will be released on bail to the satisfaction of the arresting officer subject to the condition that she will join investigation as and when required by the police. In case of non-compliance of the order passed by this Court, it will be open to the prosecution agency or the complainant to seek cancellation of bail of Rajni Rampal.

October 5, 2016
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.