

CRM-M-31698-2015 (O&M)

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

**CRM-M-31698-2015 (O&M).
Decided on: January 22, 2016.**

Mukesh Kumar Arora and another

..... Petitioner(s)

Versus

State of Haryana

..... Respondent(s)

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

**PRESENT Mr.Deepak Thapar, Advocate,
for the petitioners.**

Mr.D.S.Salwara, DAG. Haryana.

**Mr.Rakesh Nehra, Advocate,
for the complainant.**

M.M.S. BEDI, J (ORAL).

Petitioners seek the concession of pre-arrest bail in a case registered at the instance of Vinod Kumar Gupta alleging that the petitioners as partners of the firm dealing in export had obtained material from the complainant and had not paid the consideration in time.

On the instructions of the petitioners, counsel for petitioners has informed that the petitioners admit their liability only to the extent of 68 lacs on the basis of account books whereas counsel for the complainant had insisted that the liability is to the extent of Rs.90 lacs.

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On an offer being made by the petitioners, the Court formed a prima facie opinion that present case is a combination of civil as well a criminal liability wherein the petitioners intend to repay the amount and settle the accounts. The liberty of the petitioners was protected by granting them interim bail subject to a condition that they shall pay a sum of Rs.25 lacs to discharge part of the liability against the admitted liability by 31.10.2015 by handing over a bank draft to the Investigating Officer in the name of the complainant. The petitioners approached Hon'ble the Apex Court against the condition imposed by filing an SLP No.9079 of 2015 which was disposed of and dismissed on 19.9.2015. However, relaxation was given to the petitioners to deposit sum of Rs.25 lacs by 30.11.2015 instead of 30.10.2015.

Interim relief granted by this Court to the petitioners was extended from time to time. When the matter has been taken up today it has been informed on behalf of State that yesterday two bank drafts of Rs.5 lacs each in the name of the firm of the complainant have been handed over to the Investigating Officer.

Counsel for the petitioners has submitted that on account of global recession in the business, they would not be able to arrange money as undertaken. Counsel for the petitioners further submitted that bona fide of the petitioners may be gathered from their conduct of having paid a sum of Rs.10 lacs yesterday.

Counsel for the complainant, at this stage, has

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doubted the credibility of the petitioners claiming that they have been able to hoodwink the process of law and evade their arrest for four months without discharging admitted liability to any extent.

Counsel for the petitioners has submitted that if given reasonable time, the petitioners would be able to arrange money and discharge their liability.

I have heard the counsel for the petitioners, counsel for the complainant as well as the State counsel.

Bank drafts of Rs.10 lacs handed over to the Investigating Officer have been offered to the counsel for the complainant who has submitted that he has got instructions to receive the amount of Rs.25 lacs as per promise of the petitioners made before this Court as well as before Hon'ble the Apex Court.

In view of above circumstance, bank drafts handed over by the petitioners to the Investigating Officer have been returned to the counsel for the petitioners in the Court.

Taking into consideration the totality of the above said circumstances, I have considered the claim of the petitioners for grant of pre-arrest bail. It is settled principle of law that concession of pre-arrest bail cannot be claimed as a matter of right but it is an extraordinary discretion which is exercised taking into consideration the prima facie merits and the bonafides of the accused. In the present case conduct of the petitioners of having evaded the arrest by a false promise made before this Court, is a circumstance compelling this

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Court not to exercise the extra ordinary jurisdiction in their favour.

No extra ordinary exceptional circumstances exist for the grant of pre-arrest bail to the petitioners in the present case.

The petition is dismissed without prejudice to the right of the petitioners to enter into any compromise. It is also observed that nothing mentioned in this order will prejudice the right of the petitioners to seek concession of regular bail by surrendering before the Illaqua Magistratge or the Investigating Officer.

January 22, 2016.
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(M.M.S. BEDI)
JUDGE