

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

CRM-M-33820-2016

Decided on : 22.11.2016

Jai Kishan and another

..... Petitioners

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Shiv Kumar , Advocate for the petitioners.

Ms. Tanushree Gupta, DAG Haryana.

Mr. Surinder Dagar, Advocate for the complainant.

DEEPAK SIBAL, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No. 44 dated 29.03.2016 registered under Sections 406, 420, 506 & 120-B IPC at Police Station Tigaon, District Faridabad.

The case of the prosecution is that the complainant was to receive money from one Dinesh Verma. Petitioner No.1-Jai Kishan called the complainant to his showroom where in the presence of the complainant, petitioner No.1 took out a big sealed packet of currency notes. He told the complainant that the receipt/written documents had already been drafted by him and that the complainant may append his signatures to the same. The complainant told petitioner No.1 that he would first count and receive the money on which petitioner No.1 stated that he had been running the jewellery business worth crores of rupees and therefore, the complainant should have faith on him. Relying on the assurance given by petitioner No.1, the complainant appended his signatures on the above documents. Thereafter, petitioner No.1 informed the complainant that the settled amount to be paid by

Dinesh Verma to the complainant was contained in the bundle of currency notes which were given by him to petitioner No.2-Gopal and one Nagender (petitioner in CRM-M-34347-2016 Nagender @Naggi Vs. State of Haryana whose petition has been dismissed by me vide order of even date). When the money was counted, the same was found short by Rs. 5,50,000/-.

Petitioner No.1 in his statement under Section 164 Cr.P.C. stated that the amount payable was not Rs. 9,50,000/- but Rs. 8,00,000/- which had been settled to be paid by Dinesh Verma to the complainant and the same was given by him to Nagender and petitioner No.2 Gopal and therefore, embezzlement, if any, was at their end.

Petitioner, Jai Kishan says that he had given Rs.8,00,000/- to Nagender and petitioner No.2-Gopal to be given to the complainant whereas the case of the prosecution is that the amount of Rs. 9,50,000/- was to be paid in full and final settlement to the complainant. Petitioner No.1 has stated that the embezzlement, if any was at the hands of either Nagender or petitioner No.2-Gopal. On the other hand, Nagender in his defence, while seeking anticipatory bail before the Additional Sessions Judge, Faridabad has specifically stated that he had only received from petitioner No.1 an amount of only Rs.4,00,000/- which he disbursed to the complainant.

The statement u/s 164 Cr.P.C. by petitioner No.1 refers to the full and final payment to be made to the complainant on 24.08.2015 whereas the FIR shows that the incident is of dated 22.11.2015.

Learned counsel for the petitioners submits that there is a delay in lodging of the FIR. Learned State counsel denies the above to say that the complainant had made an application to the Police on 24.12.2015 and the FIR was lodged after a preliminary enquiry at the hands of the Police and therefore, there is no delay.

The allegations are serious and recovery of Rs. 5,50,000/- is also to be made from the accused. As above, there are contradictory statements by the co-accused which need to be resolved and for which,

according to me custodial interrogation would be necessary.

In view of the above without expressing any opinion on the merits of the matter, I do not consider the present case to be a fit case for the grant of concession of anticipatory bail.

The petition is dismissed.

(DEEPAK SIBAL)
JUDGE

22.11.2016.

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Whether speaking/reasoned : **Yes / No**

Whether reportable : **Yes / No**