

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

CRM-M-3425-2016 (O&M)

Date of decision : 20.09.2016

Rajesh C. Kothari

...Petitioner

Versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. P.S. Ahluwalia, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab,
assisted by HC Avtar Singh.

Mr. S.S. Mor, Advocate,
for Mr. Jitender Ratta, Advocate for the complainant.

JITENDRA CHAUHAN, J. (Oral)

The petitioner seeks pre-arrest bail in case criminal complaint No.RT-06 dated 09.01.2013, titled as *Daljit Bahia Vs. Gian Kaur and others*, under Sections 420, 423, 467, 468 read with Section 120-B of the Indian Penal Code.

Heard.

On 01.02.2016, the following order was passed:-

“The instant petition has been filed under Section 438 Cr.P.C. seeking concession of pre-arrest bail to the petitioner in criminal complaint No.RT-06 dated 09.01.2013 titled as Daljit Bahia vs. Gian Kaur & others, registered under Sections 420/423/467/468/ read with Section 120-B IPC.

Complainant is Daljit Singh Bahia, who was owner of agricultural land in Rupnagar district. Genesis of the complaint is pertaining to a sale deed dated 11.06.2010

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registered in the office of Sub Registrar, Rupnagar in favour of Ambuja Cement by Rajinder Singh (since deceased) who was a GPA of the complainant for a sum of Rs.5.39 crores. Complainant primarily alleges that a sum of Rs.3 crores only was paid to late Rajinder Singh/GPA and the balance amount has been released in favour of co-accused Hardeep Singh. The present petitioner has been roped in and is named as accused No.8 in the capacity of being the Unit Head of Ambuja Cement at Rupnagar.

*Counsel appearing for the petitioner would inter alia contend that the accused in the present case would be the company itself i.e. Ambuja Cement which is a corporate entity and the Directors and other persons incharge of the affairs of such company could not per se be nominated as accused on the principle of vicarious liability, as such principle would be alien to the criminal jurisprudence. In support of such contention, counsel would place reliance upon a judgment of the Hon'ble Supreme Court in **Sunil Bharti Mittal v. Central Bureau of Investigation, AIR 2015 SC 923.***

Yet another pertinent fact that has been brought to the notice of the Court is that in FIR No.18 dated 12.03.2012 registered at Police Station Sadar Rupnagar, the present petitioner having not been nominated as an accused in the investigation that had followed, an application under Section 319 Cr.P.C. had been preferred by the complainant praying for summoning of various officials of Ambuja Cement including the present petitioner as additional accused and such application has been dismissed by the learned Chief Judicial Magistrate, Rupnagar in the light of order dated 03.10.2015 (Annexure P-7). Perusal of the application under Section 319 Cr.P.C. filed by the complainant Daljit Singh Bahia would in itself reveal that it specifically referred to one of the transactions entered into between late Rajinder Singh/GPA and M/s Ambuja Cement for sale of 92 kanals and 15 marlas

land and in which only Rs.3 crores had allegedly been paid whereas the sale deed entered into between the parties mentioned the total sale consideration to be Rs.5.39 crores approximately. This is the same very transaction upon which the instant complaint is based and in pursuance to which the petitioner has been summoned and is now seeking the concession of pre-arrest bail.

Notice of motion, returnable for 16.03.2016.

In the meanwhile, petitioner is directed to appear before the trial on the date already fixed i.e. 12.02.2016.

In the eventuality of the petitioner doing so, he would be entitled to ad interim protection as regards arrest subject to the satisfaction of the trial Court.”

Learned counsel states that in pursuance of the above order, the petitioner has appeared before the Court on 12.02.2016, and furnished bail bonds.

Learned counsel for the complainant vehemently opposed the prayer made by learned counsel for the petitioner. He states that there are specific allegations against the petitioner and a heavy amount of Rs.2.39 crores is involved in the matter.

In view of the fact that the petitioner has surrendered before the trial Court, order dated 01.02.2016, is made absolute.

20.09.2016
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No