

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

CRM-M-37190-2015 (O&M)

Date of decision-17.11.2016

Tarsem Kumar and others

...Petitioner

Vs.

U.T. Chandigarh

...Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. Vivek Aggarwal, Advocate for the petitioners.

Ms. Ashima Mor, APP (UT)

Mr. Vikas Behl, Senior Advocate with

Mr. Manbir Singh Baath, Advocate for and

Mr. Ramandeep Singh, Advocate for

Mr. H.S. Dhindsa, Advocate for respondent No.2.

DEEPAK SIBAL, J. (Oral)

CRM-34845-2016

The application is allowed and the document Annexure-A1 is ordered to be taken on record.

CRM-M-37190-2015 (O&M)

The petitioners who are 3 in number have approached this Court under Section 438 Cr.P.C praying for the grant of anticipatory bail in FIR No. 377 dated 22.09.2015 under Section 420 IPC registered at Police Station Sector 26, Chandigarh.

A perusal of the order of this court dated 02.11.2015 shows that while issuing notice of motion this Court had directed the petitioners to join investigation and in the event of their arrest, they were directed to be released on interim bail to the satisfaction of the Investigating Officer subject to furnishing a bank guarantee of Rs. 10 crores within a period of one week.

The order dated 02.11.2015, on the application of the petitioners was modified through order dated 19.11.2015 to the extent that instead of a bank guarantee, original documents pertaining to five properties of the petitioners worth over Rs. 38 crores shall be submitted with the Registrar (Judicial) of this Court.

It is not disputed that the petitioners did submit the original documents as directed with the Registrar (Judicial) of this Court. Thereafter, through order of this Court dated 03.03.2016, original documents of two of the aforesaid five properties were ordered to be released by this Court.

After hearing the matter at length on 19.08.2016 this Court had passed the following order:-

“Learned counsel for both the parties assisted this Court by pointing out the earlier orders made by this Court, particularly order dated 20.01.2016 and 03.03.2016. From the perusal of these orders it is clear that there is no dispute that amount of Rs.5 crore was made over to the complainant as recorded in the order dated 03.03.2016. The balance amount found by the Court is Rs.10,35,00,000/-.

Learned senior counsel for respondent No.2 has serious grievance about non-payment of the balance amount as per orders made by the Court. Learned counsel for the petitioners submits that the petitioners would today itself make payment of Rs.2,50,00,000/- to respondent No.2 and the counsel for respondent No.2 on behalf of client and on instructions has agreed to accept the said amount. Insofar as the balance amount, is concerned, after making payment of Rs.2,50,00,000/-, the balance will be Rs. 7,35,00,000/-.

Learned counsel for the petitioners on instructions from his client, who is present in the Court makes a further statement that the balance amount shall be paid on or before

03.11.2016. The statement is accepted as undertaking given by the petitioners to this Court regarding balance payment of Rs.7,35,00,000/-. The petitioners shall file undertaking on affidavit in this regard with the Registry of this Court by supplying copy to counsel for the complainant within one week. It is also made clear that in case of failure of petitioners in making payment as aforesaid the petitioners will have to face contempt proceedings.

Be that as it may. Learned counsel for the petitioners submits that respondent No.2 is holding the shares as stated in the FIR itself and after making of the payments as recorded by this court, all the shares are liable to be returned.

To this learned senior counsel for respondent No.2-complainant on instructions agrees that within a day or two after receipt of entire payment, the shares would be returned to the petitioners.

It is made clear that stipulations made in this order are without prejudice to the rights of both the parties including the claim for interest and damages, if any, as the case may be.”

It is not disputed that in compliance of the above quoted order the petitioners have filed the undertaking on affidavit as required. All the amounts as directed by this Court have been paid to the complainant and the complainant has in terms of the afore quoted order returned the shares along with the signed transfer deed to the petitioners.

The payment of money and return of shares as also the claim for interest/damages, if any, is without prejudice to the rights of either of the parties and the issue is left open to be decided in appropriate proceedings, if any.

Learned State counsel submits that the petitioners as and

when called for, dutifully joined the investigation and are no longer needed for investigation.

Learned senior counsel appearing on behalf of the complainant/respondent No.2 states that in view of the parties having complied with the order dated 19.08.2016, he also has no objection if the petitioners are granted the concession of anticipatory bail.

In view of the above, the order dated 01.11.2015 granting *ad-interim* anticipatory bail to the petitioners is made absolute.

So far as the original documents of 3 of the properties of the petitioners which are lying with the Registrar (Judicial) of this Court, the same are ordered to be returned to the petitioners on a receipt to be furnished by them.

(DEEPAK SIBAL)
JUDGE

17.11.2016.
kv

Whether speaking/non-speaking: Yes/No
Whether reportable : Yes/No