

**201/A      IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRM No. M-39348 of 2015  
DECIDED ON: OCTOBER 17, 2016**

**SURINDER KUMAR**

**.....PETITIONER**

**VERSUS**

**STATE OF PUNJAB**

**.....RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE JASPAL SINGH**

Present:    Mr. Hardeep Singh, Advocate  
                 for the petitioner.

Mr. RPS Sidhu, AAG, Punjab.

Mr. Sandeep S. Josan, Advocate  
for the complainant.

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**JASPAL SINGH, J (ORAL)**

By virtue of instant petition preferred under Section 438 Cr.P.C., petitioner has sought pre-arrest bail in case FIR No. 142 dated 30.09.2015 under Sections 406 and 420 IPC registered at Police Station Passiana, District Patiala.

Shortly put, the allegations contained in the afore-said FIR are that the petitioner and his brother Jatinder Kumar, their wives and sons promised to send the son of complainant to America and for that purpose, the complainant paid a sum of ₹22 lacs to them. Further neither the son of the complainant was send to America nor the amount was returned. However, two cheques amounting to ₹5 lacs and ₹1 lac were issued on April 07 and 08, 2015 by the petitioner out of the account of his firm M/s Surinder Kumar Jatinder Kumar in part repayment of the afore-said amount, which on their presentation were dishonoured.

From the allegations and counter allegations it appears that there was some dispute with regard to the settlement of the accounts in between the petitioner and the complainant. It is established on record *prima facie* that petitioner is running a Commission Agency under the name and style of M/s Surinder Kumar Jatinder Kumar. Photo copies of the ledger in this regard have been produced in Court, which have been taken on record. As far as issuance and dishonourment of the cheques are concerned, a complaint under Section 138 of Negotiable Instruments Act preferred by the complainant against petitioner is already pending. Apart from it a civil suit filed by the petitioner for declaring M/s Surinder Kumar Jatinder Kumar as insolvent is already pending in which complainant is already appearing. It was only subsequent to the filing of said suit a complaint was filed before the Senior Superintendent of Police, Patiala. Subsequently on the basis of which, instant case was registered. It is a matter of evidence that an amount of ₹22 lacs was received by the petitioner, his brother and other family members , as has been alleged by the complainant.

Keeping in view the afore-said aspects and the fact that civil as well as criminal litigations are going on in between the parties prior to the registration of instant case and also the fact that the case of the petitioner is mainly based upon the documentary evidence, this Court is of the considered view that custodial interrogation of the petitioner is not required. This Court further finds that a case is made out to exercise its discretionary powers as envisaged under Section 438(2) Cr.P.C.

Accordingly, instant petition is allowed and petitioner is directed to produce the relevant documents i.e. account books to the Investigating Agency and to join the investigation on October 27, 2016 at 11.00 AM or any other date

convenient to the Investigating Agency. In the event of arrest, petitioner shall be released on pre-arrest bail at the satisfaction of the Arresting Officer/Investigating Officer subject to the conditions, as envisaged under section 438(2) Cr.P.C.

OCTOBER 17, 2016  
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(JASPAL SINGH)  
JUDGE

*Whether Speaking/Reasoned*      *Yes/No*

*Whether Reportable*                      *Yes/No*