

**Sr. No. 210
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM No. M-43157 of 2015 (O&M)
Date of Decision: 22.01.2016**

Ashok Mago and another

...Petitioners

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Puneet Sharma, Advocate,
for the petitioners.

Mr. D.S.Virk, AAG, Punjab.

Mr. Gagan Oberoi, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA.J.

Present petition has been filed under Section 438 Cr.P.C.
seeking concession of pre-arrest bail to the petitioners in case FIR
No.206 dated 25.11.2015, under Sections 420/120-B of Indian Penal
Code, registered at Police Station Division No.6, Industrial Area,
Ludhiana City.

On 19.12.2015 while issuing notice of motion, the
following order was passed by this Court:

*“Petitioners seek pre-arrest bail in FIR
No.206 dated 25.11.2015 under Sections 420, 120-B IPC,
registered at Police Station Division No.6, Industrial Area,
Ludhiana City.*

*Learned counsel for the petitioners refers to
the compromise deed (Annexure P-1) and particularly
para 3 thereof at page 18 of the paper book to contend,*

inter-alia, that out of total settlement amount of Rs.20 lacs, an amount of Rs.7.80 lacs has been paid by the petitioners and for the remaining amount of Rs.12.20 lacs, three cheques dated 30.05.2015 were issued. He submits that somehow the petitioners could not arrange the amount and the cheques came to be dishonoured. Complainant moved the complaint before the learned Court of competent jurisdiction under Section 138 of the Negotiable Instruments Act and the petitioners have been summoned therein vide order dated 23.07.2015 (Annexure P-3). Learned counsel for the petitioners would next contend that in the FIR, the amount has been exaggerated by the complainant to the tune of Rs.85 lacs, which is contrary to the settled amount. In such a situation, custodial interrogation of the petitioners would not be required.

Notice to Advocate General, Punjab for 18.01.2016.

In the meantime, in the event of arrest, the petitioners shall be released on interim anticipatory bail to the satisfaction of arresting/investigating officer subject to the conditions envisaged under Section 438 (2) Cr.P.C. At the first instance, petitioners shall join the investigation on or before 23.12.2015 and cooperate with the investigating agency. The petitioners are also directed to join the investigation, thereafter, as and when required by the investigating agency, by issuing a notice under Section 160 Cr.P.C.”

On the date of subsequent hearing i.e. 18.01.2016, counsel appearing for the complainant did not dispute that a settlement had been arrived at between the parties for a sum of Rs.20 lacs. However, the present petition was opposed on the plea that even such settlement has not been acted upon and a sum of

Rs.7,80,000/- only has been paid. This Court was further informed that cheques as regards the balance amount had been issued and upon presentation were dishonoured.

On 18.01.2016 while extending the interim protection granted to the petitioners, the petitioners were called upon to furnish a demand draft of Rs. 7 lacs in the name of the complainant.

During the course of hearing, today learned counsel appearing for the petitioners has produced two bankers cheque both carrying the date of 21.01.2016 one for an amount of Rs.5 lacs and other for 2 lacs in the name of the complainant firm. The drafts have been handed over to counsel appearing for the complainant.

Counsel appearing for the petitioners further undertakes that an amount of Rs.50,000/- per month would be made over to the complainant to make good the balance payment of Rs.5,20,000/- as per settlement dated 17.04.2015 arrived at between the parties.

To leave no scope of doubt such periodic/monthly payments of Rs.50,000/- shall commence w.e.f. 01.03.2016.

Learned State counsel upon instructions from ASI Gurcharan Singh would submit that the petitioners otherwise have joined investigation.

In view of the above, the present petition is disposed of by making the order dated 19.12.2015, passed by this Court as absolute.

It is, however, made clear that in case the petitioners default in the future payments and as has been directed in the present order, the benefit of this order shall cease to operate.

Counsel appearing for the complainant has also fairly stated that upon the entire payment as per settlement dated 17.04.2015 being made, proceedings initiated under the provisions of Negotiable Instruments Act would be withdrawn. Suffice it to observe that in the eventuality of the petitioners making good the amount settled, it would be open for them to file a quashing petition under Section 482 Cr.P.C. seeking quashing of the FIR and to which the complainant would have no objection.

As regards the submission raised by counsel for the complainant that even interest would accrue on account of delayed payment in furtherance of the settlement, no opinion is being expressed. Liberty, however, is granted to the complainant to take out appropriate civil proceedings.

Disposed of.

22.01.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**