

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Date of Decision: August 1, 2016

1. CRM M-8416 of 2016
Gurbachan Singh and another
.....Petitioners

Vs.
State of Punjab
.....Respondent

2. CRM M-11276 of 2016
Pushpinder Singh
.....Petitioner

Vs.
State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.
-.-

Present:- Mr.G.S. Kaura, Advocate for the petitioners in
CRM M-8416 of 2016.

Mr.J.P.S. Sarao, Advocate for the petitioner in
CRM M-11276 of 2016.

Ms. Simsi Dhir Malhotra, DAG, Punjab.

Mr. Mohd. Yusuf, Advocate

-.-

M.M.S. BEDI, J. (ORAL)

This order will dispose of two petitions, one filed by
Pushpinder Singh (CRM M 11276 of 2016) and the second filed by
Gurbachan Singh and another (CRM M 8416 of 2016).

The petitioners seek the concession of pre-arrest bail in a case registered at the instance of Labh Singh alleging that petitioner Pushpinder Singh is owner of firm M/s Gurnam Singh Randhawa and Sons, a commission agent firm, and has duped the farmers to the tune of Rs. 35 lacs as the complainant and others used to sell their produce to the firm of the petitioner for the last so many years. The allegation against the firm is that it owed money to the farmers but the owners have sold the land and purchased the land some where else in order to evade their duty to discharge the liability.

Counsel for the petitioner Pushpinder Singh has vehemently contended that the petitioner has been falsely implicated in the case and that the allegation against the petitioner constitutes only a civil liability as the complainant and other aggrieved persons have got recorded in their statements u/s 161 Cr.P.C. that the money had been given to the petitioner on loan, that too in the year 2009 and 2010. Counsel has further argued that offence u/s 420 IPC is not made out as none of the alleged victims had been persuaded to part with any money. Their case is that they had voluntarily given loan to the petitioner. It has also been urged by the counsel that neither offence u/s 420 IPC is made out nor prosecution can be launched u/s 406 IPC as the bar of Section 468 Cr.P.C. will not permit the launching of prosecution after a period of three years. He has also argued that a representation has been made by the petitioner to SSP regarding his false implication on the basis of forged documents. He has submitted that in case it is established that the receipts produced by prosecution witnesses ,namely, Resham Singh, Labh Singh, Bharpur Singh, Sham Singh, Satgur Singh,

Surjit Kaur, Darshan Singh, Pavittar Singh, Jaspreet Singh, Gurbhej Singh, Manpreet Singh, Ajaib Singh, Khushpreet Singh, Gurpreet Singh, Labh Singh, Gurdev Singh, Joginder Singh, Mohinder Singh and Angrej Singh are found to bear the signatures of petitioner Pushpinder Singh, he would be liable to pay the money to them.

Mr. G.S. Kaura, counsel for Gurbachan Singh and Amandeep Singh (CRM M 8416 of 2016) has vehemently contended that as a matter of fact the petitioners were running the commission agency till 2006 but the partnership firm was dissolved and the entire business was taken up by their nephew Pushpinder Singh. The receipts of Rs. 40000/- and Rs.87000/-, alleged to have been signed by the petitioners, pertain to the year 2006 when the partnership firm stood dissolved. It has been vehemently urged that Gurbachan Singh- petitioner has retired as a Lecturer, whereas petitioner No.2 Amandeep Singh ceased to be a partner after 2006. Reliance has been placed on Annexure P-4 to P-6.

I have heard counsel for the petitioners and also gone through the alleged dissolution deed, indicative of the fact that the assets and liabilities of M/s Gurnam Singh Randhawa and Sons had been prepared and Pushpinder Singh had taken over all the assets and liabilities. Petitioner Pushpinder Singh appears to have taken up the assets and liabilities of M/s Gurnam Singh Randhawa and Sons, a commission agency. His signatures have been appearing on the receipts of money. The act of cheating by Pushpinder Singh is prima facie established from the record but the role of petitioners Gurbachan Singh and Amandeep Singh looks debatable in view of the extent of their liability which is to be determined from the

documentary and oral evidence. A large number of victims cannot be said to be unnecessarily conniving with each other to falsely implicate Pushpinder Singh.

In view of totality of the above circumstances, the petition bearing **CRM M-11276 of 2016 filed by petitioner Pushpinder Singh is dismissed.** However, the petition bearing **CRM M-8416 of 2016 filed by petitioners Gurbachan Singh and Amandeep Singh is allowed** and it is ordered that in case of arrest of the petitioners- Gurbachan Singh and Amandeep Singh, they will be released on bail to the satisfaction of the arresting officer subject to the conditions that they will join investigation as and when required by the police and that they will not tamper with the evidence or hamper the investigation, in any manner.

August 1, 2016
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.