

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

**CRM No.M-13558 of 2017 (O&M)
Decided on: 08.05.2017**

Munish Mahajan and another

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Ramdeep Partap Singh, Advocate
for the petitioners.

Mr. Ankur Jain, AAG, Punjab.

Mr. Vipin Mahajan, Advocate
for the complainant.

REKHA MITTAL, J.

CRM-14085-2017

Heard.

Allowed as prayed for.

Annexures P11 and P12 are taken on record subject to just
exceptions.

Disposed of accordingly.

CRM-15282-2017

Heard.

Allowed as prayed for.

Annexures P13 and P14 are taken on record subject to just
exceptions.

Disposed of accordingly.

CRM-M-13558-2017

The petitioners pray for grant of bail in anticipation of arrest in FIR No.24 dated 12.02.2017 for offence punishable under Section 304-B of the Indian Penal Code (in short 'IPC') registered at Police Station Civil Lines, Batala.

Charu Mahajan (since deceased) got married to Anish Mahajan, brother of petitioner No.1 on 26.01.2014 and a son was born out of their wedlock. Anish Mahajan is working in the HDFC Bank At Gurdaspur. On 11.02.2017, Charu Mahajan committed suicide and was declared brought dead by the Doctor in Civil Hospital, Batala.

Counsel for the petitioners has submitted that the petitioners are married for the past 20 years and have two children aged 18 years and 12 years. The petitioners initially lived at Kansal Gali, Batala on the first floor of the house and had a separate Ration Card. Later, they shifted to a new house at Mahajan Colony, Batala wherein the petitioners along with their children and old aged parents are residing on the ground floor of the house as is apparent from separate electricity connections of petitioner No.1 and his brother Anish Mahajan. Petitioner No.1 is doing business for the past 25 years and his income is growing each year, reflected in the income tax returns placed on record. The last submission made by counsel is that due to some inadvertent mistake committed by a person who passed on the instructions to their counsel for filing bail application before the Court of Sessions, address of the petitioners was wrongly mentioned as residents of Kansria Gali, Batala, District Gudaspur but later they engaged another counsel and had given instructions to him to make

necessary correction by giving their correct address.

Counsel for the State assisted by counsel for the complainant would submit that in the bail application filed before the Court of Sessions, petitioners intentionally gave wrong address in order to create an impression that they were residing in a house separate from the deceased and Anish Mahajan. This fact was brought to the notice of the Court by counsel for the State and the Court directed the Investigating Officer to make necessary verification whereupon it was informed that all members of the in-laws family including the deceased were jointly residing at Mahajan Colony, Batala and that fact is also mentioned in Column No.7 of the FIR where address of the accused is mentioned. Further submitted that counsel for the petitioners filed an application before this Court CRM No.14085 of 2017 seeking permission to place on record supplementary grounds purportedly filed before the Court of Sessions (Annexure P12) and the application is supported by an affidavit of petitioner Munish Mahajan. It is argued with vehemence that the petitioners have sought to rely upon supplementary grounds (Annexure P12) when as a matter of fact, no such application was filed before the Court of Sessions.

Counsel for the petitioners, in reply, would submit that the petitioners have filed another application CRM No.15282 of 2017 explaining the circumstances under which the application (supplementary grounds) was not filed by their Advocate Mr. Tarlochan Singh of Gurdaspur despite obtaining signatures of the petitioners on the stamps affixed on the application and signatures of the Advocate on the application. It is further argued that the petitioners cannot be made

to suffer for the mistake committed by giving wrong address of the petitioners in the headnote of the application and failure of their counsel to file the supplementary grounds explaining the circumstances under which wrong address was mentioned.

I have heard counsel for the parties, perused the paperbook, the police records and records of the Court of Sessions in Bail Application No.31 of 15.02.2017 decided on 28.03.2017.

Indisputably, the supplementary grounds (Annexure P12) sought to be placed on record by filing CRM No.14085 of 2017 is not a part of records of the Court of Sessions. Along with CRM No.14085 of 2017, affidavit of Munish Mahajan – petitioner No.1 has been filed. Paras 3 and 4 of the affidavit read as follows:-

“3. That it is worthwhile to mention here that the address given in the bail application below is the address which is on the Ration Card of the petitioners. The same was mentioned in the bail application because of miscommunication with the lawyer. The copy of the ration card has been appended with the main petition as Annexure P-2. So, there was no mala fide intention on behalf of the petitioners at all. They do not have a new Ration Card of their new address.

4. That the said fact was pointed out by the counsel for the complainant during the hearing of the bail application before the Court below. Subsequently when this fact came to the notice of the petitioners they immediately changed their lawyer and engaged a new lawyer and filed supplementary grounds for bail. The said fact is evident from the bare perusal of the Annexures P-11 and P-12 place on record.”

When this application was considered on 01.05.2017,

counsel for the complainant urged that document (Annexure P12) is not a part of records before the Court below but counsel for the petitioners disputed that fact. In order to verify correctness of rival submissions made by counsel for the parties, records of the Court below were called for 08.05.2017. In between, on 05.05.2017 another application CRM No.15282 of 2017 was filed by the petitioners in an effort to explain their position with regard to supplementary grounds dated 27.03.2017.

Plea of the petitioners that wrong address was mentioned in the bail application due to mistake on the part of person who passed on instructions to their counsel before the Court below is highly misconceived and gets falsified and belied from the affidavits of Munish and Sheetal, filed in support of bail application mentioning the same address. The petitioners committed another misconduct by filing the application i.e. CRM No.14085 of 2017 to place on record (Annexure P12) supported by an affidavit of Munish Mahajan. The petitioners tried to hoodwink the Court proceedings by giving wrong address in the bail application filed before the Court of Sessions supported by their duly sworn affidavits and thereafter by placing on record document (Annexure P12) that was never a part of the records of the Court below. Had the complainant been not represented by an Advocate either before the Court of Sessions or before this Court, it was quite likely that petitioners would have got favourable orders on the basis of mis-statement of material facts.

As per the settled position in law, a person who approaches the Court with unclean hands by concealing or mis-stating material

facts, he is not entitled to indulgence of the Court much less to get relief in discretion. In this view of the matter, the petitioners are not entitled to pre-arrest bail, a concession to be allowed by the Court in extra-ordinary circumstances.

For the foregoing reasons, the petition fails and is accordingly dismissed.

08.05.2017
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No