

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

CRM-M-3149-2017

Date of Decision :-10.10.2017

Rajan Kumar and others

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE H.S. MADAAN

Present: Mr.Inderjit Sharma, Advocate
for the petitioners.

Mr.Kirat Singh Sidhu, DAG, Punjab.

Mr.Divyadeep Walia, Advocate
for the complainant.

H.S.MADAAN, J. (ORAL)

This petition for pre-arrest bail has been filed by petitioner Rajan Kumar and his sons Rajat Kumar and Sunny Kumar @ Sahil, all of them being accused in FIR No.0385 dated 19.11.2016 for the offences under Sections 406/420 IPC registered with Police Station Zirakpur, District SAS Nagar (Mohali).

FIR in this case was registered on the basis of an application submitted by complainant Ms.Rakhi Narang wife of Raman Narang, resident of Flat No.309, Tower No.5, Motia Heights Dhakoli, Zirakpur dated 9.11.2016 addressed to Senior Superintendent of Police, Mohali wherein she contended that accused Rajan Kumar had taken a sum of Rs.6 lacs from her on the pretext of getting prepared gold ornaments and a cheque, which she had given for preparing gold ornaments and the same had been misused by him; that Rajan Kumar had

taken Rs.2 lacs in cash and a cheque for Rs.4 lacs from her from her residence #309, Motia Heights, Zirakpur but till date, he had not given her gold ornaments and had not returned her money and when she asked from him about gold ornaments, he threatened her; that Rajan Kumar had lodged a false complaint against her in which she approached Senior Superintendent of Police, Bathinda and they registered this complaint and referred it to District Mohali; that at Mohali, her complaint was investigated by DSP(D), who found that Rajan Kumar has committed a fraud of Rs.6 lacs; that opinion of District Attorney was obtained.

Apprehending their arrest in this case, the petitioners have filed an application in the Court of Sessions earlier but the same was dismissed by learned Additional Sessions Judge, SAS Nagar, Mohali vide order dated 19.1.2017.

I have heard learned counsel for the petitioners, learned State counsel and learned counsel for the complainant besides going through the record.

On the face of it, complainant giving Rs.6 lacs i.e. cheque for Rs.4 lacs and Rs.2 lacs in cash to accused Rajan Kumar as advance for preparation of gold jewellery does not seem to be convincing. Normally, the payment of cost of gold jewellery is made after receiving its delivery from the manufacturer/goldsmith. No writing evidencing complainant basing order with accused Rajan Kumar for preparing the gold jewellery had been placed on file. The complainant paying a heavy sum of Rs.6 lacs to accused, without any writing or getting receipt etc. seems highly unlikely. The cheque issued by complainant in favour of

accused Rajan Kumar is said to have been bounced for which Rajan Kumar is stated to have filed a complaint under Section 138 of the Negotiable Instruments Act, wherein complainant was declared a proclaimed offender earlier. Subsequently, she had put in appearance, again absenting as submitted by counsel for the petitioners and coercive process has been issued against her, that shows the complainant in poor light. The version set up by the petitioners that complainant had in fact purchased gold ornaments from petitioner Rajan Kumar on 12.9.2014 worth Rs.2,87,000/- and had issued cheque No.252911 dated 1.10.2014 for Rs.2,87,000/- drawn upon HDFC Bank, near bus-stand, Bathinda appeared to be much more plausible and probable. The cheque was dishonoured since as per information conveyed by the banker was to the effect that 'cheque stop instructions' i.e. the drawer had instructed the bank to stop payment. The dispute between the parties is of civil type. The petitioners had joined the investigation in terms of the order passed by this Court and they have been released on interim bail.

Under the circumstances, the interim bail granted to the petitioners on 1.2.2017 is made absolute, subject to the following conditions:

- 1) that they shall make themselves available for interrogation by a police officer as and when required;
- 2) that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;

- 3) that they shall not leave India without the previous permission of the Court; and
- 4) they shall surrender their passports before the Investigating Officer if they have got one otherwise to furnish affidavit in that regard.

The petition stands allowed accordingly.

10.10.2017
Brij

(H.S. MADAAN)
JUDGE

Whether reasoned/speaking :	Yes/No
Whether reportable :	Yes/No