

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

**CRM-M No.34843 of 2017
Date of Decision.22.09.2017**

Ajay Kumar Maheshwari and othersPetitioners

Vs

State of PunjabRespondent

Present: Mr. B.S. Bhalla, Advocate
for the petitioners.

Ms. Rajni Gupta, Sr. DAG, Punjab.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The prayer in the petition is for grant of regular bail to three petitioners, who have been languishing in jail since 08.08.2017 in respect of FIR bearing No.46 dated 10.04.2015 registered under Section 406/420/120-B IPC with Police Station Doraha, Khanna on the basis of complaint dated 23.01.2015 submitted by the complainant.

Learned counsel appearing on behalf of the petitioners submits that for the purpose of obtaining loan, certain documents were executed between the petitioners and the complainant. The loan was to be paid in installments but the petitioners could not pay regular installments and therefore, there was a default on their part. The cheques issued in lieu of the aforementioned loan got dishonoured. Resultantly, a complaint under Section 138 of the Negotiable Instruments Act was filed on 28.05.2013, which is pending adjudication. Since agreement contained a resolution of dispute through arbitration, matter was referred to the arbitration and an arbitration award dated 19.10.2013 came to be passed and execution was

disclosing the availment of aforementioned remedies and the police in lieu thereof registered the aforementioned FIR and arrested the petitioners.

As per the medical record, petitioner No.3 namely Sanjeev Kumar Maheshwari is suffering from Skin Cancer, petitioner No.2 namely Rajesh Kumar Maheshwari from high blood sugar and petitioner No.1 Ajay Kumar Maheshwari have stones in both kidneys. No useful purpose would be served in keeping them behind bars as it is purely a civil dispute but would take all the defences in case the police intends to file a report under Section 173 Cr.P.C. against them.

Per contra, Ms. Rajni Gupta, Sr. DAG, Punjab, on instructions from ASI Baljinder Singh, contends that in pursuance of the complaint submitted by the complainant, police conducted an enquiry wherein the petitioners also did not disclose the pendency of the aforementioned proceedings, though the police in the investigation found the pronouncement of the Award and pendency of the petition under Section 138 of the Negotiable Instruments Act but still on finding commission of aforementioned offences, registered the FIR. The investigation is on but the challan is yet to be filed, thus, urges this Court for dismissal of the petition.

I have heard learned counsel for the parties and appraised the paper book. Shorn of the facts as narrated above and for avoidance of repetition, the fact remains that the complainant was required to disclose the factum of pendency of the complaint under Section 138 of Negotiable Instruments Act for dishonour of cheques issued in lieu of availment of loan facility, passing of the arbitration Award dated 19.10.2013 and its execution.

As noticed above, no useful purpose would be served in

keeping them behind bars, owing to the fact that law of nature has its own way in bringing the miseries. Further, it may not affect the investigation and even the defence of the petitioners. Keeping in view the aforementioned facts and circumstances, I deem it appropriate to grant regular bail to the petitioners. Resultantly, the crl. petition is allowed and the petitioners are ordered to be released on bail subject to furnishing of bail bonds to the satisfaction of the CJM/Duty Magistrate, Ludhiana.

(AMIT RAWAL)
JUDGE

September 22, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No