

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

CRM-M No.45224 of 2016

Date of decision: 21st February, 2017

Manoj Kumar Jain

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Rahul Deswal, Advocate for the petitioner.

Mr. Munish Sharma, Asstt. Advocate General, Haryana
for the respondent/State.

Mr. Charanjit Singh Bakhshi, Advocate
for the complainant.

FATEH DEEP SINGH, J.

Petitioner Manoj Kumar Jain has moved this anticipatory bail application under Section 438 Cr.P.C. and the same stems from the complaint of one Ashwani Saraf. The brief allegations are that the accused claiming to be the Director of M/s Zaira Diamonds Pvt. Ltd. had offered franchisee to the complainant for which payments by way of cheques amounting to Rs.40.00 lacs, Rs.20.00 lacs, Rs.10.00 lacs, Rs.10.00 lacs respectively were given on different occasions totalling to Rs.80.00 lacs and thereafter he failed to grant the franchisee and thus, the complainant alleges that he has been duped on this fraudulent

misrepresentation of the accused against whom number of criminal cases are pending.

Mr. Anmol Rattan Sidhu, Senior Advocate assisted by Mr. Rahul Deswal, Advocate representing the petitioner has sought to impress upon the Court that it was a joint venture during the course of which certain cheques were given by the complainant to the petitioner and that allegation, if any, harbours around the very civil transactions which have been falsely given the tinge of criminality and that nothing is to be recovered from the petitioner.

The same is stoutly opposed by learned State counsel assisted by learned counsel for the complainant Mr. Charanjit Singh Bakhshi, Advocate on the grounds that neither there is any iota of proof of such averment of partnership between the petitioner and the complainant and it was a pure and pure dishonest intention from the inception and the averments of the cheques having been given in lieu of business transactions are unsubstantiated and the petitioner has numerous criminal cases against him under various criminal provisions.

Appreciating the submissions, learned counsel for the petitioner though has made fervent efforts to bring about the element of civil litigation but the documents like partnership deed, Form-F and Form-B all pertain to one firm M/s JVP Brothers and nothing concerning the alleged relationship of partnership concern being run by the two sides could be satisfactorily established by the petitioner side.

The prima facie allegations and the very inception of element of deceit from the very start, the means by which the petitioner has duped the complainant of his valuable money amounting to more than Rs.80.00 lacs on such a fraudulent pretext of granting him franchisee, the conduct of the petitioner even prior to this incident brought to the notice of the Court together with the settled proposition of law that provisions of Section 438 Cr.P.C. are to be sparingly used and since custodial interrogation is essential, impels this Court to decline the prayer.

The petition stands dismissed accordingly.

(FATEH DEEP SINGH)
JUDGE

February 21, 2017
rps

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