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

1. CRM-M-49211-2017

Mohd. Shabir **...Petitioner**

Versus

State of Haryana **...Respondent**

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2. CRM-M-14244-2018

Ahmar Jamal **...Petitioner**

Versus

State of Haryana **...Respondent**

Date of decision: 19.12.2018

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Rajesh Lamba, Advocate
for the petitioner in CRM-M-49211-2017.

Mr. Vikas Kumar, Advocate
for the petitioner in CRM-M-14244-2018.

Mr. Himmat Singh, DAG, Haryana.

Mr. Shubhankar Baweja, Advocate
for the complainant.

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ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions as they arise out of the same FIR.

These petitions have been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to petitioners Mohd.

Shabir and Ahmar Jamal in case FIR No. 355 dated 12.07.2017, registered under Sections 120-B, 406 and 420 of the IPC at Police Station S. G. M. Nagar (Sanjay Gandhi Memorial Nagar), Faridabad.

The operative part of the order dated 24.01.2018, vide which petitioner Mohd. Shabir has been granted interim bail, is reproduced below:

> **"Counsel for the petitioner has submitted that the petitioner is having the business dealings with the complainant namely Mohammad Shakeel Haider. It is further submitted that the complainant had to pay a huge amount of Rs.60 lacs to the petitioner and on the asking of the complainant as well as the co-accused Ahmar Jamal, the petitioner created a new society in the name of Shakeel Haider Engineers and Contractors and opened a bank account on 01.03.2017. Counsel for the petitioner has further submitted that the complainant and the aforesaid co-accused Ahmar Jamal are in close relation with each other and Ahmar Jamal was working with the complainant being authorized signatory and Manager of Shakeel Haider Engineers and Contractors, Faridabad. It is further submitted that since the petitioner used to supply material to the complainant – firm and has raised the bill which are attached as Annexure P2 (Colly.), the petitioner was to receive the payment from the complainant and on the asking of the complainant and his brother-in-law – Ahmar Jamal, another company by the same name was formed and an account was also opened in Bhiwadi, Rajasthan. Counsel for the petitioner has further submitted that the demand draft bearing No.451953 dated 17.01.2017 was handed over to the petitioner by the complainant and the co-accused themselves and it was encashed on 07.03.2017 in the**

> **bank at Bhiwadi, Rajasthan. Counsel for the petitioner has further argued that the application submitted by the Ahmar Jamal on 16.04.2017 that the aforesaid demand draft has been lost is an afterthought as it was well withing the knowledge of the complainant and Ahmar Jamal that the demand draft has already been encashed on 07.03.2017 and it is, thus, submitted that, in fact, it is a business transaction between the petitioner on one side and the co-accused and the complainant on the other side which has been given a colour of criminal litigation. Counsel for the State, on instructions from ASI Rajesh Kumar, has, however, submitted that the petitioner by way of opening a new firm by the same name of which the complainant is a partner and the co-accused – Ahmar Jamal was the authorized signatory and Manager of the said firm at Faridabad, has fraudulently withdrawn the amount. After hearing counsel for the parties, I am of the view that it will be appropriate that the petitioner is directed to join the investigation and hand over all the documents relating to his claim towards the complainant for payment of money and also explain to the Investigating Officer, the circumstances under which the demand draft was handed over to him. List again on 20.02.2018."**

Thereafter, on 10.04.2018, noticing the aforesaid order, petitioner Ahmal Jamal was also granted concession of interim anticipatory bail by this Court.

Learned counsel for petitioner Mohd. Shabir submits that though the petitioner, in pursuance to the order dated 24.01.2018, has already appeared before the SHO/Investigating Officer and has joined the investigation, however, on the asking of learned State counsel, he has rejoined the investigation.

Learned counsel for petitioner Ahmar Jamal also submits that in pursuance to the order dated 10.04.2018, the petitioner has already appeared before the SHO/Investigating Officer and has joined the investigation.

Learned counsel for the State, on instructions from ASI Rajesh Kumar, assisted by learned counsel for the complainant, has, however, submitted that recovery of certain amount is to be effected from the petitioners which the petitioners have taken during the course of business.

In view of the above, without commenting anything on the merits of the case and considering the fact that this is in fact a business dispute, both these petitions are allowed and the interim bail granted to petitioners, vide orders dated 24.01.2018 and 10.04.2018, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

A photocopy of this order be placed on the file of other connected case.

December 19, 2018 **(ARVIND SINGH SANGWAN)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*