IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CRM-M-37287 of 2018
Date of Decision: 23.10.2018

Bhisham Chauhan ....Petitioner

VERSUS

State of Haryana ....Respondent

2. CRM-M-37618 of 2018

Vishal Beniwal ....Petitioner

VERSUS

State of Haryana ....Respondent

3. CRM-M-39300 of 2018

Kharak Singh ....Petitioner

VERSUS

State of Haryana ....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate
with Mr.Pratham Sethi, Advocate
for the petitioner in CRM-M-37287-2018.

Mr. M.S. Khaira, Sr. Advocate
with Mr. D.S. Randhawa, Advocate
for the petitioner in CRM-M-37618-2018.

Mr. Sandeep Kumar Rana, Advocate
for the petitioner in CRM-M-39300-2018.

Ms. Dimple Jain, AAG, Haryana.

****

SURINDER GUPTA, J.(Oral)

Present petitions have been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to petitioners in case FIR No. 674 dated 12.12.2017 registered for offences punishable under Sections 406/420/506/120-B of Indian Penal Code, at Police Station Kotwali, District

Faridabad.

2. Instant FIR was registered on the complaint of Deepak, an employee of M/s Hello Distribution Pvt. Ltd. of which petitioners are directors. As per complainant, M/s Hello Distribution Pvt. Ltd. engaged the complainant as Requirement Officer of the company on deposit of ₹20,000/-. He was offered salary of ₹20,000/- and was asked to add 500 members with the company, who will contribute ₹1000/- each per month for 17 months. One member will be entitled to 32 inches LED TV on draw of lots every month and all the remaining persons will be supplied LED TV on completion of 17 months.

3. Complainant joined 400 members with the company, who paid ₹1000/- each. About 21000 people were joined in this scheme. When the time for delivery of LED TV came, petitioners started putting off the matter and ultimately refused.

4. Learned counsel for petitioners have argued that though petitioners were directors of the company but had no relation with its business. They were not authorized to sign any document or to receive any payment on behalf of the company. The complaint was made against Pankaj Sharma and others for committing the fraud with the company. In fact members, who were joined, had either not paid the regular installments or if they had paid, the same was not deposited by agents with the company, as such, petitioners are not liable for any fraud. They are ready to sit with the investigating officer and explain their position and produce the required documents.

5. Learned State counsel has argued that firstly petitioners were running a chit fund company without any licence. Crores of rupees were

collected from the public and no one was given the LED TV as promised on expiry of 17 months. Documents, taken into possession by the police, show that from the account of the company a sum of ₹61,25,000/- were transferred to the account of petitioner-Vishal Beniwal (in CRM-M-37618-2018), ₹52,67,000/- were transferred to the account of petitioner-Kharak Singh (in CRM-M-39300-2018) and ₹1,67,38,998/- were transferred to account of petitioner-Bhisham Chauhan (in CRM-M-37287-2018).

6. One of the employee deputed by petitioners to collect the money had to commit suicide as petitioners did not supply LED TV to those who had deposited ₹1000/- per month with M/s Hello Distribution Pvt. Ltd. through him. This plea of learned counsel for the petitioner is not tenable that agents of the company have committed fraud. Agents were working for the company and it is the company, which is liable for the conduct of its agents. It is a big fraud committed by petitioners with general public and do not entitle them to seek bail by invoking discretionary power of this Court.

7. From the submissions of learned State counsel and allegations in the FIR, I find that *prima facie* case is made out against petitioners for defrauding the general public. They had collected crores of rupees and distributed the booty amongst themselves. The poor persons were asked to deposit ₹1000/- each per month with the allurement to give LED TV to one member every month by draw of lots and then to give LED TV to remaining members of scheme on expiry of 17 months.

8. Keeping in view gravity of offence and that custodial interrogation of petitioners is required to verify the quantum of fraud and *modus operandi* of petitioners and other co-accused, I do not find it to be a fit case to invoke discretionary power as provided under Section 438

Cr.P.C. to extend the benefit of anticipatory bail to petitioners.

The above captioned petitions have no merit and are dismissed.

October 23, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No