

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

CRM-M-3953-2018

Date of decision:-9.2.2018

Sunil Kumar and another

...Petitioners

Versus

State of Haryana

...Respondent

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

Argued by: Mr. R.S. Mamli, Advocate
for the petitioners.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioners – Sunil Kumar and Anil Kumar, both of them being accused in FIR No.4 dated 4.1.2018 for offences under Sections 406, 408, 120-B IPC registered with Police Station Uklana, District Hissar.

Briefly stated, the facts of the case are that FIR in question was lodged on the basis of written complaint submitted by complainant – Narayan Dass to Superintendent of Police, Hisar in which he contended that he is doing the wholesale business of selling fruits and vegetables; that Sunil Kumar is working as driver on truck No.HR39B-9011 as driver; that he takes empty gunny bags from Uklana and brings tomatoes from

village Pipal, District Nasik (Maharashtra); that on 14.7.2017 at 1:00 p.m., Sunil Kumar had taken empty crates/gunny bags to village Pipal and when he started from Uklana, then the complainant and others had collected Rs.11 lakhs and handed over the same to him in front of Sunny Batra; that Rs.25,000/- were paid to him as transportation charges; that the complainant came to know that Rs.11 lakhs so given to Sunil Kumar had not been given to the person concerned; that the complainant went to village Pipal and he confronted Sunil Kumar, who could not give any satisfactory reply and it transpired that he (Sunil Kumar) had given amount of Rs.11 lakhs to his brother Anil Kumar, in that way Sunil Kumar had committed criminal breach of trust with regard to the amount of Rs.11 lakhs entrusted to him, in conspiracy with his brother and co-accused Anil Kumar.

Apprehending their arrest in this case, the petitioners have approached the Court of Sessions for grant of pre-arrest bail but their such application was declined by learned Additional Sessions Judge, Hisar vide order dated 19.1.2018. Feeling aggrieved, they have approached this Court for grant of similar relief.

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

There are specific allegations against petitioner – Sunil Kumar of usurping a sum of Rs.11 lakhs belonging to the complainant, which had been handed over to him and his brother petitioner – Anil Kumar being in league with him.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had

observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioners is definitely required for complete and effective investigation to find out as to the manner in which the crime was committed and whereabouts of Rs.11 lakhs. The recovery is to be effected from such accused. In case custodial interrogation of the petitioners is denied to the investigating agency, that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

9.2.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No