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

CRM-M-47819 of 2018

Date of decision: November 16, 2018

Ajay Kumar and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. R.S. Tacoria, Advocate for the petitioners.

A.B. CHAUDHARI, J (Oral)

This is the second petition for grant of anticipatory bail in FIR No.1114 dated 25.12.2014, under Sections 409/34 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Hissar City, Hissar.

Heard learned counsel for the petitioners at length.

This Court had earlier rejected the petition for grant of anticipatory bail to the petitioners in respect of the FIR that was lodged by the Haryana State Agriculture Marketing Board (for short 'Marketing Board') with the following finding as to dues of EPF, ESI and service tax:-

“.....The admitted fact, however, remains that the petitioner is not willing to show his documents/accounts and all papers to the Provident Fund Department and has been avoiding the scrutiny by the department to find out the exact dues towards the petitioner and firm. There are reason to accept the statement by the EPF that out of ₹78,40,282/- the petitioner paid only ₹6,27,155/- and the balance amount is

₹72,82,439/- and as per ESI Department out of total amount of ₹34,63,713/- the petitioner has not paid a single pie and insofar as the service tax is concerned he still has to pay ₹24,66,738/-.....”

Learned counsel for the petitioners has relied on the award between the Marketing Board and the petitioners to contend that the award shows full settlement. In the order dated 11.08.2017 passed in CRM-M-17291 of 2015 and CRM-M-19828 of 2015 rejecting the grant of anticipatory bail to the petitioners, it was specifically observed by this Court that the petitioners had collected the amount towards EPF, Service Tax as well as ESI dues from the employer, i.e. Marketing Board, but did not deposit the same with those Government Departments and on the contrary, misappropriated the same. According to the various Departments, the balance amount towards EPF payable by the petitioners is ₹72,82,439/-, towards ESI Department balance amount payable is ₹34,63,713/- and Service Tax is ₹24,66,738/-. These amounts are obviously part of public money and poor employees. Until and unless, the petitioners show receipts for payment of these amounts to various Departments, the award that is sought to be pressed into service is of no assistance to the petitioners. The petitioners do not have any.

In that view of the matter, the plea for grant of anticipatory bail for second time to the petitioners is rejected.

Petition stands dismissed.

After passing of this order, learned counsel for the petitioners states that he has no faith in this Court and requests for referring the matter to some other Bench. It is unfair on the part of the

learned counsel to say so as the Court cannot decide the cases as the counsel desires. Unfortunately the trend is on the increase. Be that as it may. Request is rejected.

(A.B. CHAUDHARI)
JUDGE

November 16, 2018

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Whether speaking/ reasoned: **Yes**

Whether Reportable: **Yes**