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

CRM-M No.8381 of 2018

Date of Decision: 20.03.2018

PARMINDER SINGH AND ANR.Petitioners

Vs

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Suneet Kumar, Advocate
for the petitioners.

Ms. Neelam Kashyap, D.A.G., Haryana.

RAJ MOHAN SINGH, J. (Oral)

Petitioners seek grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.09 dated 05.01.2018, registered under Sections 341, 365, 382, 34 IPC at Police Station Baldev Nagar, District Ambala.

FIR was registered on the statement of Ajay Malik, Manager in the firm "Last Mile Innovative Solutions". According to the allegations in the FIR, driver of truck i.e. Avnish Kumar informed the complainant that his truck was stopped by the occupants of a car near Baldev Nagar, when it was coming from Delhi to Chandigarh. The truck was taken to Singh Transport forcibly. The FIR in question was registered at 23:45 hours on receipt of *ruqa* at 22:45 hours. The raid was conducted and as

per recovery memo Avnish Kumar was recovered on 05.01.2018 itself as per prosecution story.

Learned counsel for the petitioners submitted that Gaurav Barwa is the proprietor of the firm namely Last Mile Innovative Solutions and he used to hire vehicles from the Company of petitioner No.1 of which petitioner No.2 is an employee. There were business dealings between petitioner No.1 and Gaurav Barwa. On account of refusal to pay the due amount, petitioner No.1 filed a complaint against Gaurav Barwa in which he was summoned by the Judicial Magistrate Ist Class, Ambala on 21.08.2017 for the offence under Section 420 read with Section 120-B IPC. Gaurav Barwa was granted bail by the Court on 13.12.2017 in which present complainant Ajay Malik stood surety for him.

Learned counsel also relied upon a video clipping dated 06.01.2018 showing that the truck in question was parked in front of the police station. Presence of the petitioners and police officials was also shown.

On the other hand, learned State counsel on instructions from ASI Krishan Lal submitted that after recovery of Avnish Kumar, his statement was recorded under Section 164 Cr.P.C., before the Judicial Magistrate Ist Class, Ambala on 23.01.2018 wherein he deposed that the Police had recovered

him between 11 to 12 p.m. on 05.01.2018.

I have considered the submissions made by learned counsel for the parties.

At this stage without meaning anything on authenticity of the aforesaid video clip, I deem it appropriate to consider the factum of business transactions between the parties, where in a complaint filed by petitioner No.1, Gaurav Barwa was summoned by the Court and was granted bail in which the present complainant stood as surety for him. Admittedly the complainant is an employee of Gaurav Barwa. The lodging of FIR at 11.45 p.m. and the recoveries effected thereof would be debatable as to the timing and veracity of allegations made on either side. Perusal of recovery memo would also show that no time of alleged recovery of Avnish Kumar has been mentioned.

In view of above, petition is allowed. Petitioners are ordered to be released on bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

March 20, 2018

Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No