

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13784 of 2019
DECIDED ON: 27.03.2019

ATUL GUPTA

..PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Ashok Singla, Advocate,
for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant petition under Section 438 Cr.P.C. has been made for grant of anticipatory bail to the petitioner, in case, FIR No.476 dated 26.09.2017, registered under Sections 420 and 120-B IPC, Police Station Civil Lines, Police Commissionerate Amritsar, District Amritsar.

According to the prosecution, complainant-Sarita Ahlawat, a widow and NRI invested ₹31.00 lakhs for a space in a commercial complex with a builder namely M/s Earth Infrastructures Ltd., of whom, the petitioner is one of the Directors. Out of aforesaid amount, ₹17.00 lakhs were paid through cheques in the year 2011 and rest ₹14.00 lakhs in cash in the year 2014, from her retiral benefits. The aforesaid builder had assured the complainant to pay incentive @ 1% per month of her investment, but neither he returned the amount nor

handed over the possession of the space booked by her.

Learned counsel contends that the petitioner is Director only to the extent of 25% in M/s Earth Infrastructures Ltd. The complainant only paid ₹17.00 lakhs and not ₹31.00 lakhs. The property which was booked by the complainant situates at Greater Noida (Uttar Pradesh). Therefore, the Punjab police has no jurisdiction to register the aforesaid FIR, more particularly, complainant claimed herself to be the resident of Gurgaon. The National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 has issued moratorium to resolve all the disputes amongst the investors and the company of the petitioner. Therefore, the complainant instead of registering the aforesaid FIR, ought to have approached NCLT.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner and considering the seriousness of allegations against the petitioner, this Court is not inclined to grant anticipatory bail to the petitioner.

Dismissed.

27.03.2019

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**(RAMENDRA JAIN)
JUDGE**

**Whether speaking/reasoned
Whether reportable**

**Yes/No
Yes/No**