

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

CRM-M-55183-2018 (O&M)

Date of Decision:-27.5.2019

HAJI AIYYUBBHAI IBRAHIMBHAI KAPADIA AND ANR

... Petitioners

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr.Pratham Sethi, Advocate
for the petitioners.

Ms. Aditi Girdhar, AAG, Haryana.

Mr. Keshav Pratap Singh, Advocate
for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. Today at the very outset, learned counsel for the petitioners has informed that since petitioner No.1-Haji Aiyubbbhai Irahimbhai Kapadia has been arrested in the present case, the petition qua him has been rendered infructuous.

2. In view of the aforesaid submission, the petition qua petitioner No.1-Haji Aiyyubhai Irahimbhai Kapadia is dismissed having been rendered infructuous.
3. The petitioner No.2-Hajiyani Sabina Kapadia seeks grant of anticipatory bail in respect of FIR No.748 dated 23.11.2017 under Sections 114, 120-B, 406, 420, 467,468,471 of the Indian Penal Code, Police Station Civil Lines, Gurugram.
4. The-allegations in nut-shell are that petitioners No.1 and 2 who are Directors of M/s Al Fatah Tours Travels had raised loan of ₹71.5 Lakhs by mortgaging property bearing No.201/B2, Rehmani Square Society, Surat whereas in fact it was later found that they have raised loan from 3 different banks against the same property by manipulating and changing identification and by creating fake ownership documents like allotment letters etc. It is also alleged in the FIR that petitioner No.1 was having two PAN cards.
5. The petitioners had earlier approached this Court seeking anticipatory which was dismissed on merits vide order dated 16.10.2018 passed in CRM-M-45740-2018. It has been informed as of now petitioner No.2 has also been declared a proclaimed offender.
6. Although during the course of arguments, learned counsel for the petitioners submitted that petitioner No.2 has been declared proclaimed offender during the pendency of the present petition, therefore, the same cannot be taken into account, but this Court is unable to accept this contention since the arrest of petitioner had not

been stayed when the matter was taken up for preliminary hearing in December, 2018 and it was only in order to probe the possibility of compromise that an order was passed on 11.4.2019 that no coercive step be taken against the petitioner till next date. On the next date i.e. 20.5.2019, this order was vacated.

7. In view of the aforesaid position when the earlier petition on behalf of petitioner No.2 was dismissed on merits and she has also been declared proclaimed offender, no case for entertaining this petition is made out. The petition as such is hereby dismissed.

(GURVINDER SINGH GILL)
JUDGE

27.5.2019
Gaurav Sorot

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No