

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

(1) CRM-M-18643-2021 (O&M)

Pushpa Jain

...Petitioner

Versus

State of Haryana

...Respondent

(2) CRM-M-19436-2021 (O&M)

Puneet Jain and another

...Petitioners

Versus

State of Haryana

...Respondent

Date of decision: 27.05.2021

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

Present: Mr. K.B. Raheja, Advocate for the petitioners.

Mr. Karan Garg, AAG, Haryana.

Mr. S.P. Arora, Advocate and
Mr. Himanshu Arora, Advocate for the complainant.

H.S. MADAAN, J.

Case taken up through video conferencing.

These petitions for pre-arrest bail under Section 438
Cr.P.C. have been filed by petitioners Pushpa Jain, Puneet Jain and
Dalip Kumar @ Dilip Bansal, all of them being accused in FIR No.131

dated 07.03.2021, for offences under Sections 420, 467, 468, 471 and 120-B IPC, registered with Police Station Rohtak City, District Rohtak.

In nutshell, the prosecution story is that, complainant Anil Kumar Mittal son of Sh. Shyam Sunder Mittal, R/o H.No.1205/18, Dhannu Mandi, Rohtak as power of attorney of his wife Rachna Mittal had submitted a complaint to the police against Pushpa Jain-wife, Punit Jain-son of Sh. Parmod Jain, Dalip Bansal son of Jai Narain, all residents of H.No.2301, Indira Colony, Rohtak, besides Raman Arora son of Satish Kumar Arora, Vipul son of brother of Pushpa Jain, posted in ICICI Bank Ltd. Delhi, and one Mandeep, Executive, Enhancer Fincorp, DSA of ICICI Bank Ltd., Laxmi Nagar, Delhi etc., alleging that his wife Rachna Mittal was a partner with Pushpa Jain in firm M/s Ridhi Sidhi Industrial Tools, situated at Hisar Road by-pass, opposite Invitation Garden, Rohtak; however, a dispute had arisen between the partners and ultimately, vide Memorandum of Understanding dated 04.07.2020, Rachna Mittal retired from the partnership; the partnership firm was dissolved w.e.f. 31.03.2020; a deed of reconstitution of partnership was executed between Pushpa Jain, Rachna Mittal and Dalip Kumar on 24.08.2020; resultantly, Rachna Mittal was retired from the firm and Dalip Kumar son in-law of Pushpa Jain was inducted as a partner in the said firm; Rachna Mittal was not left with any concern with the firm, however, later on, it came to the knowledge of the complainant that Pushpa Jain, Dilip Kumar and Punit Jain hatched

a conspiracy and in collusion with employees of DSA and ICICI Bank Ltd., applied for a bank loan for an amount of Rs.15 lacs from Rohini Branch of ICICI Bank Ltd., which was so done in the name of firm by producing old partnership deed dated 20.03.2018, though, it had been reconstituted on 24.08.2020; accused got disbursed the loan amount committing a fraud upon Rachna Mittal by forgery and fabrication of documents and producing some impersonator in place of Rachna Mittal, who had signed as Rachna Mittal on the documents; the complainant alleged that he had apprehension that either wife of Punit Jain or his sister appeared before the bank authorities and impersonated as Rachna Mittal; various other details of the wrongful acts committed being given in the complaint; on the basis of that complaint, formal FIR in the matter was recorded; the investigation in the case started.

Apprehending their arrest in this case, petitioners-accused had approached the Court of Sessions at Rohtak by moving an application seeking pre-arrest bail, however, they were unsuccessful there. As such, they have approached this Court by way of filing the present petitions, praying for grant of similar relief, which are being resisted on behalf of the State and complainant.

I have heard learned counsel for the parties besides going through the record.

The allegations against the accused are very grave and serious of committing offences of fraud, cheating, impersonation besides forgery and fabrication of documents. Custodial interrogation

of the petitioners-accused which is definitely more elicitation oriented is needed since a person couched in comparative safety of the pre-arrest bail would certainly not disclose all the facts within his knowledge. Custodial interrogation of the petitioners is necessary for complete and effective investigation and to find out as to how the crime was planned and executed and role played by the accused and other persons, if any, therein. In case, it is denied to the investigating agency that shall leave many gaps, loopholes and lacuna, adversely affecting the investigation, which is uncalled for.

The contention raised by learned counsel for the petitioners that the loan amount has already been repaid to the bank does not absolve the petitioners-accused of their guilt and make out their entitlement for grant of discretionary equitable relief of pre-arrest bail, which is to be granted by the Court in rare and exceptional circumstances to save the innocent persons from harassment and inconvenience and not to provide protective umbrella to the criminals enabling them to avoid arrest and interrogation by the investigating agency. The production of old partnership deed showing Rachna Mittal as a partner for the purpose of raising loan from the bank when Rachna Mittal had already retired from the partnership and producing some other woman in her place for getting the documents executed is an offence, which cannot be taken lightly. The accused are required to be dealt with firmly and sternly, since a message should not go around that people can indulge in serious crime of fraud, cheating,

impersonation, forgery and fabrication of documents and can get away lightly. Though, learned counsel for the petitioners has tried to build up a case that no fraud and forgery has been committed and submission of old partnership deed was due to clerical mistake of the bank and for that reason, no complaint has been lodged by the bank but he has been unsuccessful in convincing the Court in that regard. From the record, the petitioners/accused appear to have committed grave and serious offences as detailed above and no case for grant of pre-arrest bail to them is made out. The petitions are found to be without merit and are dismissed accordingly.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

27.05.2021

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No