

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

CRM-M-45214-2019

Date of decision:29.09.2021

Jyoti Choudhary and another

...Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Gautam Dutt, Advocate for the petitioners.

Mr. H.S. Sitta, A.A.G., Punjab.

Mr. B.S. Bhalla, Advocate for the complainant.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Though this petition, the petitioners seek anticipatory bail in case bearing FIR No.19 dated 12.02.2019 registered under Sections 420, 406 and 120-B IPC at Police Station City Kapurthala, District Kapurthala.

Vide order dated 23.10.2019 passed by a Coordinate Bench of this Court, the petitioner was granted *ad-interim* anticipatory bail and directed to join the investigation. The said order would read as under:-

"Learned counsel for the petitioners relies upon order dated 28.05.2019 (Annexure P-2) whereby concession is extended to the co-accused. He further contends that in respect of the due amount, the cheques were given, however, upon dishonour, complainant has already resorted to the remedy to file complaint under Section 138 Negotiable Instruments Act, 1881. According to him, in the given facts, it would be debatable as to the offence punishable under Section 420 IPC is made out.

Notice of motion for 05.12.2019.

Meanwhile, the petitioners shall join the investigation and would come present as and when called for and in the event of arrest, the petitioners shall be admitted to interim bail on their furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioners shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

To be heard along with CRM-M-24553-2019.”

Learned counsel for the petitioners submits that as in respect of the cheques, which were dishonoured, the complainant has already resorted to the remedy under Section 138 of the Negotiable Instruments Act, 1881 and, therefore, the very registration of the FIR on the same cause of action is not tenable.

However, the learned State counsel assisted by the counsel for the complainant, submits that as per Annexure C-3 annexed with the reply filed by the complainant in CRM-M-24553-2019, the petitioners were shown as the Directors of Jiya Agro Private Ltd. Still further, it is submitted that there being an active participation of the petitioners in the crime in question, they do not deserve the concession of anticipatory bail. It is yet further submitted that SLP(Crl.)35479/19 filed by co-accused, namely, Raju Jain @ Rajeev Jain, seeking pre-arrest bail, was dismissed by the Hon'ble Apex Court on 21.10.2019.

I have heard learned counsel for the parties.

Though the Coordinate Bench had granted the concession of *ad-interim* bail to the petitioners vide order dated 23.10.2019, yet after taking into consideration the factual position as narrated above, this Court is of the opinion that the petitioners do not deserve such concession any longer. As per the allegations contained in the FIR, the petitioners had received the money from from the importer(s), but did not pay the same to the complainant. Even the cheques for an amount of Rs.1,80,00,000/-, given in lieu of the payment, were dishonoured. The said conduct on the part of the petitioners does not entitle them to the grant of anticipatory bail.

Moreover, bail petition of co-accused Rakesh Singh, has been dismissed by this Court vide an order of the even date.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

29.09.2021
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(HARNARESH SINGH GILL)
JUDGE

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