

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102 CRM-M-46166-2023 (O&M)
Date of Decision : March 22, 2024

IMTIAZ AND ANR -PETITIONERS

V/S

STATE OF HARYANA -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. H.P.S. Rahi, Advocate
for the petitioners.

Mr. Bhupender Singh, D.A.G., Haryana.

Mr. Tanvir Singh Grewal, Advocate for
Mr. Kushagra Beniwal, Advocate
for the complainant.

KULDEEP TIWARI, J. (ORAL)

- Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioners seek the concession of anticipatory bail, in case FIR No.307 dated 10.08.2023, under Sections 406, 420, 506, 120-B of the IPC, registered at P.S. Thanesar City, District Kurukshetra.
- The record available before this Court emanates that the prosecution story is rooted in the complaint made by one Rohit Pandey, on the allegations of embezzlement of Rs.44,50,000/-. Succinctly stated, the complainant alleged that the petitioners had lured him to join them in the trading of Mobiles manufactured by Apple Company, on the pretext that, they get these mobiles from foreign countries at cheaper rates. Accordingly, the complainant fell prey to their allurements and entered into a deal with them for purchase of 100 Mobiles, make: Apple 12 Pro, @ Rs.91,000/- per mobile. Out of the total deal price of Rs.91,00,000/-, the complainant made

an advance payment of Rs.44,50,000/- to the petitioners, after borrowing it from his relatives and friends. However, neither the petitioners supplied any mobile to the complainant, nor returned his money, rather extended threats to him.

3. At the initial hearing of this petition, the learned counsel for the petitioner had, in order to secure the relief of anticipatory bail for the petitioners, made a submission that the matter pertains to a financial dispute, which has been camouflaged as a criminal offence. He had even made a submission that a compromise was earlier effected *inter se* the parties concerned, which resulted in an amount of Rs.17,00,000/- becoming paid to the complainant. Based upon these submissions, a Co-ordinate Bench of this Court had granted interim anticipatory bail to the petitioners.

4. During the course of arguments, on 13.03.2024, the learned counsel for the petitioners had come up with a plea that, in fact, the petitioners are themselves victims of fraud committed by one Deepak Bajaj, inasmuch as, they had delivered the entire payment received from the complainant to him for purchase of 100 mobiles (supra), however, he defrauded them. Consequently, they registered FIR No.191 dated 30.05.2023 against Deepak Bajaj, at P.S. City Nuh, District Nuh.

5. To ascertain the solemnity of the submissions (supra), this Court had, on 13.03.2024, requisitioned a status report from the learned State counsel, in respect of FIR No.191 (supra), which was filed before this Court on 21.03.2024. The said status report is accompanied by a copy of FIR No. 191 (supra).

6. This Court has perused the status report as well as the FIR No.191 (supra). However, the contents of FIR No.191 (supra) do not

conform to the submissions (supra) made by the learned counsel for the petitioners, inasmuch as, it does not carry any allegation regarding commission of fraud on account of transaction of mobiles, rather it carries a whole different set of allegations.

7. Nonetheless, this Court has examined the entire record, however, does not find anything suggestive that any compromise, as claimed by the petitioners, had ever been effected *inter se* the parties concerned, rather finds that the father of the petitioner had made an application to the enquiry officer concerned, thereby agreeing to make payment of Rs.29,00,000/- to the complainant.

8. In such circumstances, this Court is impelled to draw an inference that the petitioners have deliberately misled this Court and their conduct warrants deprecation. Consequently, since the petitioners have *prima facie* duped an innocent person, besides have misled this Court, this Court is not inclined to grant the extraordinary relief of anticipatory bail to them. In sequel, the present petition is **dismissed** with costs of Rs.50,000/- to be forthwith deposited by the petitioners with the District Legal Services Authority, Kurukshetra.

9. Pending application(s) stand disposed of accordingly.

10. It is also made clear that the observations made hereinabove are only for the purpose of deciding the instant petition and the same shall not be construed to have any bearing on the merits of the case.

March 22, 2024
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(KULDEEP TIWARI)
JUDGE

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