

BA No. 275-2019 CNR NO.PBRO0-100-1284-2019.

Ramkishan & another Vs. State of Punjab.

Present: Mr. Aditya Pratap Singh, Advocate, counsel for the applicants/ accused.

Mr. S.S. Saini, Additional Public Prosecutor for the respondent/State.

This application for grant of pre arrest bail under Section 438 of the Code of Criminal Procedure was filed by bail-applicants/accused Ram Kishan and Miterpal on 16.03.2019. Upon notice, the respondent/State appeared and contested the bail application. Police record of FIR bearing No. 14 Dated 13.02.2019 under Section 406, 420 of IPC, Police Station Chamkaur Sahib has been received and perused.

2. The present FIR has been registered on the allegations of the complainant that in the month of January 2019, the complainant had contacted the applicants-accused for the purpose of labourers in his fields situated in the area of Village Mundian, Tehsil Chamkaur Sahib, District Rupnagar and had demanded Rs.2 Lacs as an advance from the complainant and assured him to start working from 30.01.2019 and as per the assurance given by the accused the complainant had given Rs.1,50,000/- to the accused in the presence of the witnesses. Afterwards applicants-accused had not come back after taking the payment and thereafter complainant tried to contact so

many time to them through telephonic call, but they have not picked up the phone of the complainant. As such they have cheated the complainant and misappropriated the money. Hence, the present FIR.

3. The learned counsel for the applicants-accused has been falsely implicated as the complainant has connived one Mitter Singh, who is the owner of DUS brick kiln at village Pathreri Jattan, Police Station Singh Bhagwantpura, Tehsil Chamkaur Sahib, District Rupnagar and one Shiv Kumar has filed one Criminal Writ Petition No.71 of 2019 in January, 2019 of habeas corpus against them on the ground that they have kept some detenuess at the brick kiln under threat and they do not allow them to move any where from the brick kiln and he has hired Gundas and musclemen to keep watch on the detenuess and their activities. Name of the present applicants-accused are also mentioned in the list of detenuess and the complainant in connivance with the owners of the brick kiln have got registered the present FIR in connivance with the local police.

4. On the other hand, the learned Additional Public Prosecutor for the State has contended that the applicants-accused have misappropriated the amount of Rs.1,50,000/- which they have taken from complainant in order to provide labourers in his fields situated in the area of village

Mundian, Tehsil Chamkaur Sahib, District Rupnagar. He has further contended that neither the labourers have been provided nor the money has been returned. He has further contended that the applicants-accused trying to take shelter of the above referred Criminal Writ Petition which has been filed by one Shiv Kumar before the Hon'ble Punjab & Haryana High Court on 01.02.2019 by taking into note that the report has been received that none of the detinue was found at the spot at the time of raid and the said Criminal Writ Petition was disposed off and prayer for dismissal of the bail has been made.

5. I have considered the contentions raised by learned counsel for the applicant-accused and learned Additional Public Prosecutor for the State and have also gone through the police record carefully.

6. However, during the course of arguments, the learned Additional Public Prosecutor for the State has conceded that it has come during the investigation that the applicants-accused had taken the money from the complainant in order to provide the labourers to him and after taking the money they they have went to their village and have disbursed the money to the labourers in order to provide them work in the fields of the complainant, but thereafter those labourers did not come in order to honour their dealings with the applicants-accused.

7. In view of the facts and circumstances of the case, the applicants-accused are directed to join investigation within a week and if they do so, they shall be admitted to interim bail on their furnishing personal bonds in the sum of Rs.50,000/- with one surety in the like amount each to the satisfaction of the Arresting Officer, subject to their complying with conditions imposed under Section 438 (2) of the Code of Criminal Procedure. Now to come upon 30.03.2019 after complying with the above said directions.

Pronounced in open Court.

Dated: 19.03.2019.

**(Surinder Pal Kaur)
Additional Sessions Judge,
Rupnagar(UID PBO089).**

Ajay Mehta
STG-GI