

**Pawan Samnohra Vs. State of Haryana**

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**Court :** Punjab and Haryana

**Decided On :** Oct-04-2013

**Appellant :** Pawan Samnohra

**Respondent :** State of Haryana

**Judgement :**

Crl.M.No.M-17708 of 2013 -1- IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH1 Crl.M.No.M-17708 of 2013 (O&M) Date of decision : 4.10.2013 ..Pawan Samnohra .....Petitioner versus State of Haryana .....Respondent 2) Crl.M.No.M-32948 of 2013 (O&M) ..Rakesh Jolly .....Petitioner versus State of Haryana and another .....Respondents 3) Crl.M.No.M-33303 of 2013 (O&M) ..Rakesh Jolly .....Petitioner versus State of Haryana and another .....Respondents Coram: Hon'ble Mr.Justice K.C.Puri Present: Sh.

Girish Agnihotri, Senior Advocate with Sh.

Vijay Pal, Advocate for the petitioner (in Crl.M.No.M-17708 of 2013) Sh.

Bipan Ghai, Senior Advocate with Chugh Banita 2013.10.09 13:48 I attest to the accuracy and integrity of this document Crl.M.No.M-17708 of 2013 -2- Sh.

Mandeep Kaushik, Advocate for the petitioner (in Crl.M.Nos.M-32948 and M-33303 of 2013).Sh.

P.M.Anand, Additional Advocate General, Haryana Sh.

Anmol Rattan Sidhu, Senior Advocate Sh.

M.S.Chauhan, Advocate for the complainant..K.C.Puri, J.

Vide this order, I intend to dispose of Crl.M.No.M-17708 of 2013 titled as Pawan Samnohra versus State of Haryana, Crl.M.No.M- 32948 of 2013 titled as Rakesh Jolly versus State of Haryana and another and Crl.M.No.M-33303 of 2013 titled as Rakesh Jolly versus State of Haryana and another, as all these three petitions have arisen out of same FIR.

Crl.M.No.M-17708 of 2013 and Crl.M.No.M-33303 of 2013 have been filed for grant of anticipatory bail to the petitioners in FIR No.25 dated 1.2.2013 under Sections 420, 120-B IPC, registered at Police Station Chandimandir, Panchkula, whereas Crl.M.No.M-32948 of 2013 has been filed for quashing of the abovesaid FIR.

The allegation against the petitioners is that Rakesh Jolly is the director of M/s Aravali Infra Power LTD.and had account in HDFC bank.

Pawan Samnohra was the Branch Manager of HDFC Bank at Barwala.

M/s Aravali Infra Power LTD.raised loan from the complainant bank.

They committed default in the payment of the loan amount.

The bank approached the Debt Recovery Tribunal-III, New Delhi, claiming an amount of `9,81,91,355.71.

Alongwith the Chugh Banita 2013.10.09 13:48 I attest to the accuracy and integrity of this document Crl.M.No.M-17708 of 2013 -3- petition, an application for interim relief was moved for attachment of two accounts of M/s Aravali Infra Power LTD.at HDFC Bank, Barwala.

Vide order dated 4.5.2012 the said bank accounts were ordered to be attached.

On 9.5.2012, the Manager of the complainant bank approached the HDFC bank where Pawan Samnohra was the Branch Manager.

It is pleaded that after filing the application, the said Bank Manager alongwith other staff of Barwala Branch released an amount of ` 3,45,45,272/- and `1,76,43,833/- in another accounts of the firm and dishonestly transferred the amount in connivance with Rakesh Jolly.

Counsel for both the petitioners have submitted that firm M/s Aravali Infra Power LTD.has moved an application under the CDR Scheme in respect of rescheduling the loan amount of various 18 banks which was about `700 crores.

The State Bank of India being the leading bank account, agreed to reschedule the accounts of those 15 banks and agreed for the proposal in CDR Scheme.

The complainant bank and other 2-3 financial institutions have not agreed to the proposal as already been sent to them.

So, it is submitted that at the most it is a case of contempt of Court, for which the application has already been filed before the Debt Recovery Tribunal.

No criminal offence is made out.

So, prayer has been made for grant of anticipatory bail.

Counsel for the petitioner Pawan Samnohra has submitted that the petitioner has attached the account.

However, by that time the amount was transferred to other account at Delhi.

The act of Chugh Banita 2013.10.09 13:48 I attest to the accuracy and integrity of this document Crl.M.No.M-17708 of 2013 -4- petitioner Pawan Samnohra is bona fide and as such, he is entitled to the concession of bail.

Prayer has also been made for quashing of the proceedings.

The prayer has been opposed by the State counsel, as well as, by the counsel for the complainant.

I have heard counsel for both the sides and have also gone through the record of the case.

On 29.5.2013 in Crl.M.No.M-17708 of 2013 this Court passed the following order:-  
Sh.

Amol Rattan Sidhu, Senior Advocate has appeared on behalf of the complainant and has stated that the present petitioner has a talk with Rajesh Tyagi, Account and Finance Official of M/s Arravali Infra Power Limited at 11.38 A.M.for 112 seconds on 9.5.2012 and he again talked to one another Rajesh Kumar other employee of M/s Arravali Infra Power Limited at 12.19 P.M.On 9.5.2012.

The amount was transferred in the name of M/s Arravali Infra Power Limited at 12.40 P.M.So, it is submitted that there is active connivance of the petitioner with M/s Arravali Infra Power Limited in withdrawing the amount.

It is further contended that regarding receipt of information, the petitioner has ante timed.

Counsel for the petitioner wants to explain the said position.

To come up on 7.6.2013.

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Chugh Banita 2013.10.09 13:48 I attest to the accuracy and integrity of this document Crl.M.No.M-17708 of 2013 -5- Learned State counsel has supported that assertion.

So, it is revealed that Pawan Samnohra had a talk with Rajesh Tyagi, Account and Finance Official of M/s Aravali Infra Power LTD.at 11.30 A.M.for 112 seconds on 9.5.2012 and he again talked to one Rajesh Kumar, other employee of M/s Aravali Infra Power LTD.at 12.19 P.M.on 9.5.2012.

The amount was transferred in the name of M/s Aravali Infra Power LTD.at 12.40 P.M.in another account.

It is not disputed that complainant bank officials have reached the bank prior to 11.30 A.M. The accounts in HDFC Bank Barwala Branch were attached only after afternoon, after releasing whole of the amount.

So, the connivance of Rakesh Jolly and Pawan Samonhtra prima facie is established on the record.

So, the inference which can be drawn is that Pawan Samonhtra has informed the authorities of M/s Aravali Infra Power LTD. regarding request for attachment.

The transfer of the amount at 12.40 P.M. on 9.5.2012 prima facie proves that intention was to help Rakesh Jolly to withdraw the amount more than ` 5 crores.

So, in these circumstances, both applications for grant of anticipatory to the applicants Pawan Samnohtra and Rakesh Jolly stand dismissed.

So far as petition under Section 482 Cr.P.C. filed by Rakesh Jolly is concerned, that also is without any merit.

It is settled law that this Court can interfere under Section 482 Cr.P.C. only if the allegations taken as it is does not disclose any offence or the criminal proceedings are clear abuse of the process of the Court.

In view of the discussion made above, it cannot be said that Chugh Banita 2013.10.09 13:48 I attest to the accuracy and integrity of this document Crl.M.No.M-17708 of 2013 -6- prima facie case is not made out against the accused.

So, no case for interference under Section 482 Cr.P.C. is made out.

Consequently, the Crl.M.No.M-32948 of 2013 is also without any merit and the same stands dismissed.

( K.C.Puri ) 4.10.2013 Judge chugh Chugh Banita 2013.10.09 13:48 I attest to the accuracy and integrity of this document

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