

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

CRM-M-13771 of 2015

Date of decision:- May 14, 2015

Manoj Jain

....Petitioner...

vs.

State of Haryana

....Respondent...

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Aman Pal, Advocate,
for the petitioner.

Mr. C.S. Bakshi, Addl.A.G., Haryana.

JASPAL SINGH, J.

This is a petition under Section 438 of the Code of Criminal Procedure preferred by Manoj Jain-petitioner, seeking pre-arrest bail, feeling apprehension of his arrest, in case FIR No. 147, dated 16.03.2015, under Sections 328, 395 and 120-B IPC, registered at Police Station Sadar Sonapat, District Sonapat.

2. The instant FIR was registered under Sections 328, 395 and 120-B IPC at Police Station Sadar Sonapat but subsequently, on the basis of statement of watchman, an offence under Section 379 IPC was deleted whereas an offence under Section 395 IPC was added. The true extract of translation of FIR in question is reads as under:-

“To the SHO, P.S. Sadar Sonapat. Sir, It is submitted here that our company M/s Shyam Indus Power Solutions (P) Ltd. Is executing the work of laying 132 KV Transmission line from Mohana to Haryana Power House. On 04.03.2015, we had placed 8 drums of conductor wire (Zebra) bearing Sr. Nos. 259, 254, 258, 252, 238, 274, 255 and 244 in the fields of village Bargru alongside the road. The weight of these drums was about 30 tons and the value was about Rs.35 lacs. On the intervening night of 15/16.03.2015, some unknown persons have stolen those conductor wire by administering some injecting intoxication to the watchman namely Sukhi Ram son of Dhan Ram R/o Tihar Klan and Mohd. Ali s/o Sh. Abdul Aziz R/o Andaru village District Malda West Bengal. Due to this, the company has suffered a great loss. The legal action may kindly be taken.”

3. The contention of learned counsel for the petitioner is that petitioner has been falsely implicated in the instant case. He has no concern with the instant case. The petitioner is dealing with the business of manufacturing and trading of aluminum products. Learned counsel for petitioner further contends that name of petitioner does not figure in the FIR and his name came to light in the disclosure statement of Davender, which is otherwise inadmissible qua the petitioner and has no evidentiary value thereof. The alleged stolen articles/wires have already been recovered from the godown of petitioner, who was not even aware that wires kept in his godown were stolen one. Moreover, recovery of alleged stolen wires/articles were effected and complainant has already got the same on sapurdari from the Id. trial court. So, in the given circumstances,

custodial interrogation of petitioner is not required. Otherwise also, he undertakes to join the investigation as and when required by the police and abide by all the terms and conditions, imposed by the Court, in case, he is granted the concession of bail.

4. These arguments have been controverted by the Id. State counsel contending that recovery of stolen wires has been effected from the godown of petitioner during the investigation of this case, at the instance of his co-accused Davender. It has specifically been unfolded by Davender that petitioner is dealing with stolen goods/wires and in this regard custodial interrogation of the petitioner is required. Learned State counsel, accordingly, prayed for dismissal of petition.

5. This Court has given an anxious thought to the submissions made by learned counsel for the parties and has perused the police record.

6. It is an undisputed fact that petitioner is the owner/proprietor of godown and stolen wires belonging to complainant have been recovered from his godown and that too as per the disclosure statement made by co-accused of the present petitioner namely Davender.

7. In the given circumstances, it cannot be said that petitioner was not aware that stolen articles are lying in his godown. Petitioner has got dominion over the godown and is supposed to know as to what article are lying in it. In fact, it appears that petitioner conspired with his co-accused Davender etc. purchased the stolen

wires, which were subsequently recovered from his godown. The mere fact that stolen articles have already been recovered and taken on sapurdari by the complainant does not *ipso facto* mean that petitioner is entitled for pre-arrest bail. Rather, this Court is of the considered view that custodial interrogation of petitioner is essential for the proper and effective investigation of the instant case.

8. Accordingly, finding no merit in the instant petition, the same is dismissed.

(JASPAL SINGH)
JUDGE

May 14, 2015
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