IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No. M-17522 of 2015
Date of decision:- July 20, 2015

Rajiv Puri .....Petitioner..

Vs.

State of Haryana ....Respondent..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. SPS Sidhu, Advocate for the petitioner.

Mr. Rohit Arya, AAG, Haryana.

Mr. G.S. Jaswal, Advocate for the complainant-HPCL.

****

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

JASPAL SINGH, J.

Instant petition has been preferred under Section 438 of the Code of Criminal Procedure (for short, 'Code') seeking pre-arrest bail, feeling apprehension of his arrest, in case FIR No. 336, dated 28.07.2010 (Annexure P-1), under Sections 403, 405, 408, 409, 411, 413, 467, 468, 471, 420, 477, 477-A and 120-B IPC, Police Station Model Town, Panipat.

2. Instant case stands registered at the instance of Sanjay Kaushik, Senior Regional Manager (for short, 'S.R.M.') of Hindustan Petroleum Corporation Ltd., Panipat (for brevity, 'HPCL'). Complainant's company is duly incorporated under the Indian Companies Act, 1956 and is engaged in refining, distribution and marketing of petroleum products across the country having its

registered office at Sector 17, Jamshedji TATA road, Mumbai and regional office at E-22, Industrial Area, Court Road, Panipat. Complainant has retail/LPG Regional Offices got implants at various locations including at Panipat. Nitin Sharma, Proprietor of M/s Krishana Gas Agency is a LPG Dealer of HPCL whereas Parveen Pushkar employed as Manager Finance with complainant at Panipat Retail Regional Office during the year July, 2004 to April 2009 and being overall incharge of finance department at Panipat, he is responsible for all the financial matters and transaction. Ms. Poonam Puri was a contract worker and was engaged as a casual Clerk in the Finance Department of HPCL at Panipat during the years 2003 to March 13, 2010. Nitin Sharma being dealer of the complainant used to uplift LPG filled gas cylinders from LPG bottling plants of the complainant for sale and distribution to the consumers. The general practice being adopted for receiving payments against these up-liftments was that distributor had to make the payment in the concerned LPG bottling plants. However, in the case of Nitin Sharma, complainant had extended the facilities of making payment through cheques drawn in favour of complainant. He used to take supply against these payments from Jind Bahadurgarh Bottling plants of complainant. In the month of April 2010, it revealed that he had made short payment of ₹49.41 lacs against upliftments of product of complainant's company during the period March, 2008 when he was accosted, it transpired that in collusion with Parveen Pushkar and Ms. Poonam Puri hatched a conspiracy to defraud complainant's company. As and when he used to issue cheques in favour of complainant towards valuable consideration of LPG refills, other accused forestalled the presentation of these cheques to the bankers of the complainant for collection. They conspired with Nitin Sharma and stopped complainant from realizing the valuable consideration of ₹49.41 lacs. Accused made a payment of ₹29.49 lacs out of the aforesaid amount with further promise to make the balance payment at the earliest. As a result of irregularity committed by Nitin Sharma, complainant's company undertook elaborate reconciliation activity of transaction/accounts of Nitin Sharma. During reconciliation, number of financial irregularities and violations in procedures/system and guidelines came to the fore, in respect of period April 2007 to February 2009 and it revealed that an amount of ₹7.16 crores remained unpaid by Nitin Sharma. All though, he issued cheques in favour of complainant but all the three persons named above forestalled the presentation of said cheques for collection to the bankers of complainant. Nitin Sharma also expressed his willingness to pay ₹50 lacs to the complainant's company as soon as possible and balance amount in monthly installment of ₹5 lacs subject to audit of account and settlement.

3. It has been argued with vehemence by learned counsel for petitioner that name of petitioner did not figure in the FIR and it was only after about more than 4 years of the registration of FIR, Nitin Sharma Proprietor of M/s Krishna Gas Agency was arrested and name of petitioner was unfolded by him for the first time in his

disclosure statement on November 17, 2014. Moreover, Nitin Sharma has simply stated that petitioner has been working in the Regional Office of HPCL, Panipat and Finance Manager/Incharge Praveen Pushkar has given his ID and password to him. All these allegations are wrong and baseless as petitioner never worked with aforesaid office. In fact, during the relevant period from April 2007 to February 2009, he has been working with M/s S.N. Exports, Nizampur Road, Panipat as an Accountant, as is evident from certificate issued by concerned Manager (Annexure P-4). Had there been any role played by petitioner in the alleged bungling, his name would have been figured in the FIR. Even otherwise, he has been roped in in the instant case, as he has been assisting the case of his sister Poonam Puri. It has further been submitted by learned counsel for petitioner that main accused Nitin Sharma has expressed his willingness to pay ₹50 lacs to complainant's company as soon as possible and balance amount in monthly installment of ₹5 lacs. Petitioner undertakes to abide by all the terms and conditions, imposed by this Court, in case, he is granted concession of bail.

4. On the other hand learned State has strongly opposed the bail of petitioner and has submitted that there are specific and serious allegations against petitioner that he connived with his sister Poonam Puri as well as Parveen Pushkar and Nitin Sharma, who are the main culprits and have embezzled a sum of rupees more than ₹7.16 crores, therefore, Custodial interrogation of petitioner is necessary. He, accordingly, prayed for dismissal of petition.

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

6. The mere fact that name of petitioner did not figure in the FIR, does not ipso facto means that allegations against petitioner are false or baseless. Nitin Sharma, proprietor of M/s Krishna Gas Agency and dealer of LPG of HPCL, while subjected to custodial interrogation, has suffered disclosure statement that Poonam Puri sister of petitioner was working as Data Operator and has full knowledge of computer. Nitin Sharma came in contact with Rajiv Puri, Ms. Poonam Puri and Parveen Pushkar, Manager Finance. He used to give cash amount to Ms. Poonam Puri and Rajiv Puri and then they all four used to distribute the said amount. Said practice continued for a considerable period. Thus, specific role has been ascribed by Nitin Sharma to petitioner-Rajiv Puri while making disclosure statement. Huge amount is alleged to have been siphoned by petitioner in connivance with his co-accused. This Court is of the view that custodial interrogation of petitioner is necessary to unearth all the ramifications involved in this case.

7. Thus, taking into consideration aforesaid aspects as well as seriousness and gravity of offence, this Court does not find it a fit case to grant the concession of bail. Hence, petition is dismissed.

July 20, 2015 **(JASPAL SINGH)**
sonika **JUDGE**