

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

CRM-M No. 21212 of 2015 (O&M)

Date of Decision: 11.12.2015

Tejpal Garg

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Rajesh Sethi, Advocate
for the petitioner.

Mr. Rajiv Doon, Assistant Advocate General, Haryana
for the respondent/State assisted by ASI Jaipal.

JASWANT SINGH, J.

CRM Nos. 40445-40446 of 2015

Prayer in the present applications is for placing on record the additional affidavit and Annexures P-9 to P-21 and exemption from filing the certified copies of Annexures P-9 to P-21.

In view of the reasons stated in the applications, the same are allowed and additional affidavit and the documents as Annexures P-9 to P-21 are taken on record subject to all just exceptions.

MAIN CASE

Prayer in this petition under Section 438 Cr.P.C. is for grant of anticipatory bail in case FIR No. 429, dated 10.12.2014, for offences under Sections 406 and 420 of the Indian Penal Code, registered at Police Station Madhuban, District Karnal.

In the FIR, lodged by Shri Surender Hooda, Inspector, Food and Supplies Department, the petitioner is the owner of M/s Rajshree Rice Mill, Barota and in the year 2013-14, 91852.60 quintals of paddy was supplied to the

aforesaid Rice Mill for Custom Milling of Rice, out of which 61541.24 quintals of Custom Milled Rice was to be delivered to Food Corporation of India. The petitioner, however, delivered only 8041.38 quintals of rice. Thus, there was a misappropriation of paddy and Custom Milled Rice worth Rs. 13 crores.

Learned counsel for the petitioner submits that for the alleged misappropriation of paddy, arbitration proceedings have been invoked by the Department. That apart, the custody of paddy was joint and as per record whatever was supplied, proportionate Custom Milled Rice was supplied to the Food Corporation of India. Therefore, no criminal offence is made out against the petitioner.

Learned counsel for the petitioner has placed on record the additional affidavit and the documents as Annexures P-9 to P-21, showing that the Department itself has proceeded against the present complainant-Shri Surender Hooda and, therefore, the entire allegations against the present applicant-petitioner at the instance of the said officer are motivated and an effort to divert the criminal action towards the petitioner.

Learned State Counsel, assisted by ASI Jaipal, submits that after the initial investigation, a Special Investigating Team (for short 'SIT'), headed by Shri Raj Kumar, DSP, was constituted. In the investigation, the petitioner/accused has admitted that he had received only 91293 quintals of paddy instead of the recorded 91852.40 quintals of paddy and, therefore, the custodial interrogation of the accused/petitioner is required to verify where 559.40 quintals of paddy had disappeared. The petitioner disclosed that he had returned 15390 quintals of Custom Milled Rice whereas the recorded return is 8041.38 quintals of rice only. Therefore, custodial interrogation is required to determine the disappearance of 7348.62 quintals of rice. It is further submitted that the misappropriation of entrusted paddy and supplied Custom Milled Rice worth Rs. 13,15,57,226/- is required to be recovered from the

accused/petitioner. To determine the complicity of all the officials of the Department and consequent embezzlement of public money is required to be ascertained, therefore, the custodial interrogation of the petitioner is required.

During the arguments, learned State Counsel has also assured that all the officials whosoever name surfaces will be prosecuted and action be taken.

Keeping in view the stand of 'SIT' and nature and gravity of the offence, no case for grant of anticipatory bail is made out, as for free, fair and meaningful investigation, the custodial interrogation of the petitioner would be necessary.

In view of above, the present petition stands dismissed.

December 11, 2015

'dk kamra'

**(JASWANT SINGH)
JUDGE**