

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

CRM-M No.21716 of 2015.

Date of Decision: July 22, 2015.

Tanvirbinder Singh

....Petitioner.

VERSUS

State of Punjab

....Respondent.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Vishal Sodhi, Advocate for the petitioner.

Mr. Ashish Sanghi, Deputy Advocate General assisted with
Sub Inspector Manjit Singh.

SNEH PRASHAR, J.

A petition under Section 438 of the Code of Criminal Procedure (in short, "Cr.P.C.") for grant of anticipatory bail was filed by the petitioner in case First Information Report No.144 dated 06.07.2014 under Sections 406/420/120-B of the Indian Penal Code (in short, "I.P.C.") registered at Police Station Chabhal, District Tarn Taran.

The instant case was registered on a complaint given by District Manager, Punjab State Warehousing Corporation, District Office Tarn Taran. The allegations were that M/s Punjab Rice Mill, Chabhal was

allotted 75941 bags weighing 26579.35 qtls. paddy for its custom milling by the Punjab State Warehousing Corporation, District Tarn Taran in the year 2013-2014. The miller in lieu of the paddy was required to deliver 66 wagons of rice to the FCI in the account of Corporation but the miller delivered only 41 wagons of rice and did not deliver the remaining 25 wagons rice. The last of deposit of entire milled rice as per the Central Government for milling year 2013-14 was 30.06.2014. After delivering 41 wagons of rice the remaining left over paddy should have been 27655 bags, but as per the PV report conducted on 30.06.2014 a shortage of 26294 bags weighing 9202.90 qtls. of paddy had been found, the value of which was Rs.1,58,95,999/-. The allegation was that the petitioner had misappropriated the paddy, with a bad intention.

Heard the submissions made by learned counsel representing the petitioner and learned Deputy Advocate General, representing the State of Punjab.

Learned counsel for the petitioner argued that M/s Punjab Rice Mills, engaged in the business of shelling of paddy, is a partnership firm. As per the allegations in the First Information Report, the petitioner only delivered less quantity of mill rice to the FCI. From that it could not be assumed that he had dishonestly misappropriated the balance paddy. In fact, the paddy supplied for milling by the complainant was of poor quality and it did not give the required yield of 67% as per the specification and formula. The alleged shortage was due to the rice rejected by the complainant that was lying with the petitioner, as it contained high broken content, pint point

damage and discoloured rice. Learned counsel contended that the petitioner has already filed a petition for quashing of the First Information Report in which notice of motion had been issued and that the dispute between the parties is a subject matter of Arbitration. Since nothing is to be recovered from the petitioner, he be given the benefit of anticipatory bail.

In the First Information Report, there is direct allegation against the petitioner that he in lieu of the paddy allotted to him was required to deliver 66% wagons of rice to the FCI whereas he delivered only 41 wagons of rice. After the last date of deposit of entire milled rice, a committee was constituted by the Head Office of FCI, which conducted a physical verification at the petitioner's mill and found shortage of 26294 bags weighing 9202.90 qtls. of paddy valuing Rs.1,58,95,999/-. Prima facie, the petitioner has no explanation for the huge shortage. His explanation that the paddy allotted to him was of poor quality is not tenable when no such objection was raised by him when the paddy bags containing paddy were allotted to him for custom milling and they continued to remain with him till the last date of deposit. The letters Annexure P4 to P6 referred to by learned counsel for the petitioner to support his argument that the petitioner had written to the District Manager, PSWC, Tarn Taran that because of high damage and discoloured content found in the paddy the broken content of rice was high, are dated 28.02.2014, 12.03.2014 and 03.05.2014 respectively. They appear to have been written just before the last date of deposit of the milled rice was to expire. In fact, the letter allegedly written on 28.02.2014 was received by the District Manager, PSWC, Chabhal on

03.05.2014. In any case, the physical verification at the mill of the petitioner revealed the rice that was short was not available in the mill.

In view of the facts and circumstances and without going into the merits of the case, in my considered opinion, no case for grant of anticipatory bail to the petitioner is made out and his petition is dismissed.

(SNEH PRASHAR)
JUDGE

July 22, 2015
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