

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

**C.R.M-M No.23753 of 2015
Date of Decision : 12.10.2015**

Anil Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Himanshu Puri, Advocate
for the petitioner.

Mr. Chetan Sharma, A.A.G., Haryana.

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?

AJAY TEWARI, J. (Oral)

This is a petition under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in case FIR No.72 dated 15.03.2015 registered under Sections 381, 34 IPC and Sections 408, 411 IPC (added later on), at P.S. Rajendra Park, District Gurgaon.

On 10.08.2015 the following order was passed:-

“As per allegations in the FIR, the clerk of the complainant was responsible for the stock and he suddenly vanished and that is why it was detected that there was shortage of 660 bags of wall putty of 40 kgs each. The petitioner was the labour contractor and has been implicated

on that ground. I put it to counsel for the respondent that once the person who was responsible for the custody of the stock and the person who received the stolen property have been arrested; whether there is any specific independent evidence against the petitioner, she has argued that unless the petitioner appears before the Investigating Officer, it would not be possible to answer this question.

Counsel for the petitioner states that he has no objection in appearing before the Investigating Officer and showing to him that he was not complicit in this mis-appropriation but his arrest should be stayed till then.

I find this to be a fair request. In the circumstances, the matter is adjourned to 1.9.2015. The petitioner is directed to appear before the Investigating Officer on 13.08.2015 at 10 am or on any other day on which the Investigating Officer requires his presence, and in the event of his arrest, the petitioner shall be released on interim anticipatory bail by the Investigating Officer to his satisfaction subject to the compliance of the provisions as contained in Section 438(2) of the Cr.P.C. On the next date, the matter would be further taken up as per the report of the Investigating Officer.”

Learned Assistant Advocate General on instructions from ASI Abdullah Khan states that though the petitioner has joined the investigation but the bags of wall putty still have not been recovered.

Learned counsel for the petitioner on the other hand argues that even as per the allegations the main persons were the clerk of the complainant and one Govind to whom wall putty was supplied for further sale and the petitioner even as per the FIR was only providing labour. He further argues that even if all the allegations are taken to be correct there is very slim likelihood that the main person would keep around 2000 bags of

wall putty with the petitioner and that the petitioner denies the fact that any material was ever in his custody.

In these circumstances, without going into the merits of the case, I do not deem it appropriate to deny anticipatory bail to the petitioner.

Resultantly, the petition is allowed and the interim order dated 10.08.2015 is made absolute.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

October 12, 2015

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**(AJAY TEWARI)
JUDGE**