

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No. 26630 of 2015 (O&M)
Date of decision : August 20, 2015

Sahil Pathania,

..... Petitioner

v.

The State of Punjab,

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Gorakh Nath, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, Addl. A.G Punjab

- 1. Whether Reporters of Local Newspapers 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)

The petitioner seeks grant of anticipatory bail in case FIR No.25, dated 12.2.2015, registered under Section 381 of the IPC, at Police Station Division No.8, Jalandhar.

On 12.2.2015, a person who was working in Sheetal Fiber Private Limited, Jalandhar got the instant FIR lodged to the effect that one labour contractor was spiriting away blankets which were being loaded in the truck at the factory, and handing them over to the petitioner. He informed the security incharge and then informed the police. That labour contractor was apprehended and he made a disclosure statement accepting

that it was indeed the petitioner who was his accomplice. The petitioner has filed the present petition alleging that he has no role. Para 16 of the petition is as follows :-

“ 16. That Mohan Tiwari had made confession-cum-disclosure statement on 12.02.2015. In that disclosure, he had not named the present petitioner as the person involved in the commission of any alleged offence.”

Counsel for the respondent, on instructions from SI Rajinder Kumar, has shown to this Court disclosure statement of the said labour contractor who has specifically named the petitioner as his accomplice. It may be noticed that this entire occurrence took place on the same evening. FIR was lodged at 4.30 pm, and on that very day, co-accused Mohan Tiwari was arrested within a short time from near the premises and made the statement on the same day.

Counsel for the petitioner is not in a position to deny that neither the complainant nor the security incharge nor the labour contractor or the owners of the factory had any animus against the petitioner. However, as per him, statement of a co-accused can never be taken to be enough to prove the guilt.

Though this proposition of law is well known yet in my opinion, counsel for the petitioner is unduly extending it. Of-course, during the trial if no other evidence comes, statement of a co-accused cannot be held enough to implicate another person but statement of a co-accused can be a great aid for investigation, moreso in a case like the present one where the FIR, the arrest, and the statement of the co-accused took place almost contemporaneously. In these circumstances, the assertion that the petitioner is ready to join the investigation or that after having left the job in

November 2013, he is working some where else or that he has never been to Jalandhar after having left his job are outweighed by the facts mentioned above.

Counsel for the petitioner has further argued that on the application of the petitioner, an inquiry was marked by the Punjab Bureau of Investigation and the SP had found him to be innocent.

Counsel for the respondent, on instructions from the IO, states that at one stage, the Punjab Bureau of Investigation had called the file but the said file has been returned and there is no finding that the petitioner was found to be innocent and further that this was a sophisticated operation and large recoveries have to be made and the chain of other accomplices has to be unearthed.

In the circumstances, I express my inability to accept the prayer for anticipatory bail of the petitioner. Consequently, this petition is dismissed.

August 20, 2015
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(AJAY TEWARI)
JUDGE