

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-41454 of 2014
Date of Decision : 21.04.2015

Gurbhej Kumar and anotherPetitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

Present: Mr. P.S. Brar, Advocate
for the petitioners.

Mr. Gazi Mohd. DAG, Punjab.

R.P. Nagrath, J.

Prayer in the instant petition is made for grant of pre-arrest bail under Section 438 Cr.P.C. in FIR No. 124 dated 12.11.2014 for offence under Sections 406 and 420 of Indian Penal Code (IPC), registered at Police Station Ajitwal, District Moga.

Petitioners are the partners of M/s Joga Agro Industry Ajitwal and running a rice sheller. Petitioners are stated be the active partners of the firm. The allegation against petitioners was that for the crop year 2012-13 huge quantity of paddy was entrusted to them by Punjab State Warehousing Corporation (PSWC) for being delivered to FCI. It was stated that about 85000 bags of paddy weighing 27948.50 quintal was defalcated, value of which comes to ₹ 5,68,12,486/-. Initially, the Senior Superintendent of Police had recommended that there was no need of filing FIR because there was clause of arbitration in the agreement between the firm and PSWC. There cannot be any dispute of the

proposition that for not accounting for such a huge quantity of paddy, the civil and criminal proceedings can go side by side.

I have heard learned counsel for the petitioners, the State counsel and perused the paper-book and find no merit in the instant petition for grant of pre-arrest bail.

Learned counsel for petitioners, vehemently, contended that the respondent-State should be asked as to how much is the outstanding amount due against the firm especially when the Mill was sealed and it is not in possession of the partners.

I am not convinced with the above argument as the matter pertains to embezzlement of the public property worth more than ₹ 5.5 crores. The version put up by petitioners was that 258788 bags of paddy was stored in the premises of the rice sheller and all those bags were lifted by PSWC on or before 31.3.2013 after shelling of the paddy. Thereafter, the period of milling was extended by the Government upto 31.07.2013, 30.09.2013 and 17.01.2014. The facts of the case would reveal that the petitioners only accounted for 105464 bags of paddy to the PSWC out of the total stock. The FIR was recorded with the police by the District Manager of PSWC.

The present cannot be considered a case of deficiency in accounting the paddy because the defalcation reported is of huge quantity comprising of about 85000 bags of 27948.50 quintals of paddy of the value of more than ₹ 5.5 crores.

I am of the view that from the facts and circumstances

of the case, the custodial interrogation of petitioners is must.

No merit in the instant petition and the same is dismissed.

April 21, 2015
jk

(R.P. NAGRATH)
JUDGE