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

CRM-M No.5392 of 2015

Date of Decision: 17.07.2015

Amarjeet Singh @ Raju

....Petitioner

Vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Yashwinder Singh, D.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?***

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks anticipatory bail in case bearing FIR No.891 dated 20.12.2014, Police Station City Ballabgarh, Distt. Faridabad, for the offences under Sections 409, 420, 467, 468, 471, 120-B IPC, Sections 7, 10 of Essential Commodities Act, 1955 and Section 13(1)(d) of Prevention of Corruption Act, 1988.

[2]. FIR was registered on the statement of Sukhbir Singh, Administrative Officer, that on the basis of message of special informer, shop No.27 Grain Mandi, Vegetable Market, Ballabgarh was raided where the labour was unloading wheat bags from truck No.HR55-G-9064. Wheat bags were being kept in shop No.27. FCI

was written on the wheat bags and on some of the bags Haryana Government was written. Shop owner met the raiding party and told his name as Sumit S/o Hari Shankar. He told the raiding party that wheat had come from Delhi. Truck driver was not found there. No satisfactory answer was found. Sumit was asked to call driver, but he could not call.

[3]. Enquiry in respect of bill of the wheat was made. Sumit could not produce any bill regarding wheat. He simply told that bill could possibly be with the driver. Remaining bags were unloaded from the truck and were kept inside the godown and it was locked. Truck was seized. Police swung into action. Verification from Badarpur Border Delhi Toll Plaza was done in respect of truck No.HR55-G-9064. Sumit S/o Hari Shanker during the course of investigation produced bill of Kailash Enterprises, Grain Merchant and Commission Agent, Naya Bazar, Delhi showing entry of truck No.HR55-G-9064.

[4]. Lock of shop no.27 was opened in the presence of Chand Singh, Inspector Food and Supply Department and godown was inspected. 420 bags of wheat were found present. It was found that wheat brought to the shop was in fact to be distributed from Khajurka Government godown of District Palwal on 18.12.2014 to various depots of District Faridabad, Ballabhgarh amongst poor people who were possessing BPL and AAY cards under Public Distribution System. Wheat after being purchased on cheaper rate

was being sold on higher rates through black-marketing.

[5]. In Khajurka Government godown, Palwal it was enquired that truck No.HR55-G-9064 left the godown at 3.15 p.m. after being fully loaded and with gate pass. FCI form No.289 was written at serial No.7856 and endorsement was made. It was signed by Subhash (Driver). The relevant entry in the register also showed that at serial No.6, truck No.HR55-G-9064 was entered in which 420 bags of wheat were loaded. As per register of gate pass and register of chowkidar name of Raju Contractor was found, who picked up the wheat on 18.12.2014.

[6]. Enquiry from Toll Plaza revealed that there was no entry of truck No.HR55-G-9064 which could show transportation of wheat from Delhi to Ballabgarh as claimed by Sumit.

[7]. Investigation of the Police pointed accusation towards Sumit, Raju Contractor, Transporters and Driver Subhash that they were involved in black-marketing of wheat which was to be distributed amongst poor people under Public Distribution System in collusion with officers/officials of HAFED as well as Food and Supply Department. With this background the FIR came to be registered.

[8]. Learned counsel for the petitioner relies upon agreement dated 02.08.2014 executed between petitioner and the District Manager of CONFED to show that petitioner only offered to transport foodgrains from godown to the door step of fair price shop holders in Faridabad at his own risk and responsibility as per the rates fixed.

Learned counsel further states that petitioner is not driver of the truck. Driver of the truck was Subhash, who was not arrested from the spot and has been granted concession of regular bail by the Additional Sessions Judge, Faridabad on 12.01.2015. Petitioner was only entrusted with the task of carrying foodgrains from FCI depot to the door step of fair price shop holders in sub-division Faridabad. Reliance has been placed on the inquiry report dated 05.01.2015 conducted by Deputy Director along with General Manager, CONFED and AFSSO in which it has been found that distribution was properly made to 17 Depot holders on 18.12.2014 and 19.12.2014. The physical verification of 17 depot holders was also done and statement of District Food and Supply Controller, Faridabad was recorded. Physical verification conducted on 19.12.2014 found that quantity of wheat which was delivered to CONFED to depot holders was found at the spot. Learned counsel further states that physical verification was conducted on 19.12.2014 by DFSC.

[9]. Tehsildar also conducted physical verification of wheat stocks of depot holders along with members of the Inquiry Committee constituted by the Commissioner, Faridabad on 01.08.2015 and 09.01.2015 and found that 399 bags were found present. Out of 303 bags were in the name of FCI and 96 bags were in the name of State Government. Supply was allegedly made to depot holders by the contractor on 18.12.2014. Whereas it is claimed that supply was made on 19.12.2014 as per police assertion.

[10]. Prosecution on the other hand states that wheat bags were unloaded in shop of Sumit who after making initial statement has gone underground. Statements of depot holders revealed that supply was made to them by bringing wheat on Canter, however as per record of godown no Canter was loaded with wheat bags. No release order was found on the record having reference of any Canter. According to their statements wheat was supplied to them at about 4.00 p.m. to 4.30 p.m. on 18.12.2014.

[10]. According to Police investigation there was no Canter loaded from the godown during the relevant period and even thereafter. Entry at serial Nos.7,8, 9 and 10 in respect of lifted wheat from FCI Khajurka, Palwal relate to truck No.HR55-G-9064 having GR No./Bilty No.472, 474. Bill dated 18.12.2014 and names of depot holders were shown as Shamsher Singh, Suman Sharma and Sushma Devi of Shyam Colony. No other vehicle was loaded with wheat bags for the aforesaid depot holders on 18.12.2014 and 19.12.2014. It appears that depot holders have made statements in favour of accused with a view to help them in their larger interest of black-marketing the wheat meant for Public Distribution System.

[11]. The investigation is being done by Special Investigation Team. Sumit is brother-in-law of DFSC, Faridabad who conducted departmental inquiry and gave clean chit to him. Police has also collected call details of Sumit, Driver, Amarjit Singh @ Raju (Petitioner) and those details were co-related to arrive at *prima facie*

conclusion that these persons were in touch with each other at the relevant time. Driver had made a disclosure statement on 20.12.2014 to the effect that the vehicle was duly loaded with 420 bags of wheat. The owner of truck Raju S/o Bir Singh and Raju Contractor told him that this wheat is not to be delivered to depot holders, rather it has to be unloaded at shop No.27 of Sumit S/o Hari Shanker, Grain Market, Ballabgarh. Gate pass and other documents were kept by Raju Contractor. He went to shop No.27 where Sumit met him, who got the vehicle unloaded at the back of godown. He had gone to market for purchasing medicine and when he came back to the vehicle, he found that Police was standing there. On seeing the Police he fled away. He disclosed these things to the owner Raju who asked him not to go near the vehicle as he and Raju Contractor would take care of it. Truck owner Raju and Raju Contractor in collusion with HAFED officials have sold the wheat meant for the poor people to Sumit.

[12]. Petitioner is a contractor who is having *prima facie* complicity in the context of selling wheat meant for poor strata of society on higher rates in collusion with officials of the Department. He seems to be a part of larger conspiracy, particularly in view of the fact that recovered case property is still lying in custody of the Police. The Department people and even the depot holders have testified on record that no loss has been caused to anyone as stocks are complete. If 420 bags of wheat are lying in Police custody as case property from where the deficit has been made good. It seems that

all the concerned accused are filling gaps of each other under some calculated motive in order to hide incriminating information so that the episode may not be unearthed. Sumit is still at large and according to Police he is brother-in-law of DFSC, Faridabad, who conducted part of inquiry at the initial state, giving clean chit to Sumit.

[13]. Unloading of truck was caught red handed by the Police. Stand of Sumit was that wheat was procured by him from Delhi. It stood falsified *prima facie* in view of report collected from Badarpur-Delhi Toll Plaza where there was no such record of truck No.HR55-G-9064 showing entry from Delhi side to Haryana side. The statements of depot holders showing their satisfaction with regard to supply of wheat on Canter also have questionable background particularly when no such entry of any Canter was made as per record of FCI Khajurka.

[14]. The disclosure statement of driver implicates petitioner. If his disclosure statement is read in conjunction with other material collected by the Police. Bilty No.474 in respect of HR55-G-9064 duly coincided with the record of FCI Khajurka and 420 bags of wheat are still lying with the Police as case property.

[15]. Looking to the aforesaid incriminating material, I am of the view that custodial interrogation of petitioner is required in order to bring home larger conspiracy involved in the present case. Since the issue relates to black-marketing of wheat meant for poor strata of

society like BPL/AAY card holders, therefore, prosecution should be given free hand to investigate the case thoroughly so as to bring culpability of all the concerned to the fore.

[16]. In view of aforesaid, petitioner does not deserve any concession of anticipatory bail and accordingly the prayer for grant of anticipatory bail is declined.

[17]. Nothing expressed hereinabove would be construed to be a final opinion on merits.

July 17, 2015

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(RAJ MOHAN SINGH)
JUDGE