

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

CRM-M-6460-2015

Date of decision: 9.3.2015

Harjinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Sandeep Chopra, Advocate for the petitioner

Ms.Simsi Dhir Malhotra, DAG, Punjab

SNEH PRASHAR, J.

By filing the instant petition under Section 438 of the Code of Criminal Procedure, the petitioner has sought anticipatory bail in case FIR No. 261 dated 4.12.2014, registered under Sections 408, 409, 473, 120-B of the Indian Penal Code (for short 'the Code'), at Police Station Rajpura City, District Patiala.

This case was registered on the complaint lodged by Bhupesh Kumar s/o Madan Lal, owner of Bharti Enterprises, shop No.161, Anaj Mandi Rajpura Town Police Station City Rajpura. The allegation of the complainant was that his goods were going to Indri Best Food Limited, Karnal, Haryana for about one month

through Haryana Kashmir Front Carrier (Transport) Ambala. On 7.11.2014 he had sent four vehicles to Best Food Limited, Karnal through the aforesaid transport company. One truck bearing No. HR55 L-7987 on which 489 paddy bags were loaded and the driver of which was Baljinder Singh s/o Karam Singh and his brother Harjinder Singh @ Kala, resident of Ward No.3, Cheeka, Haryana did not reach the destination. He came to know about the same on 29.11.2014. On inquiry at his personal level, he came to know that the actual number of the truck was HR55J-1136 and the owner of the truck was Satwant Singh @ Kanti s/o Aranga Ram Caste Jat, r/o Village Nandgarh, Police Station Guhla, Haryana.

The complainant alleged that Satwant Singh, owner of the truck, driver Baljinder Singh, his brother Harjinder Singh @ Kala and Naresh Kumar, Transporter, in collusion with each other had misappropriated 489 bags of paddy by placing a fake number on the truck.

On the complaint, the FIR in question was registered. Apprehending his arrest, petitioner Harjinder Singh filed an application under Section 438 of Cr.P.C. for anticipatory bail, which was dismissed by the learned Additional Sessions Judge, Patiala vide order dated 21.1.2015.

Feeling aggrieved, the petitioner filed the instant bail petition for grant of anticipatory bail by invoking the provisions of

Section 438 of Cr.P.C.

Mr.Sandeep Chopra, Advocate representing the petitioner and Ms.Simsi Dhir Malhotra, Deputy Advocate General, Punjab have been heard.

Learned counsel for the petitioner contends that the petitioner has been falsely dragged into the instant criminal case merely for the reason that his brother Baljinder Singh was the driver of the truck in which 489 paddy bags were loaded, which allegedly did not reach the proper destination. He further submits that the FIR was got registered after a delay of about one month and long period of delay was sufficient for concocting a false story. Submitting that main accused Baljinder Singh, driver of the truck in question has already been arrested and no role stands attributed to the petitioner in the entire incident, release of the petitioner on anticipatory bail was sought.

The present petition has been opposed by the learned State counsel. She submits that the cost of 489 bags of paddy which were sold of by the petitioner in collusion with his brother Baljinder Singh, driver of the truck and another accused, was Rs.5.50 lacs. On arrest of Baljinder Singh, an amount of Rs.3 lacs which had fallen to his share was recovered. The remaining amount of Rs.2.5 lacs is still to be recovered, which as per the investigation was share of petitioner Harjinder Singh @ Kala.

It is not a case where the name of Harjinder Singh @ Kala was introduced at a later stage being brother of Baljinder Singh. Rather, it was mentioned in the FIR itself that driver of the truck in question was Baljinder Singh and his brother Harjinder Singh was travelling with him.

A substantive amount out of the total price of the paddy bags allegedly collected by the petitioner and his brother by selling the same is yet to be recovered. For the said purpose as submitted by the counsel for the State, the custodial interrogation of the petitioner is necessary. Accordingly, there being no merit in the petition, the same is hereby dismissed.

9.3.2015
gsv

(SNEH PRASHAR)
JUDGE