

Criminal Miscellaneous No.M-9276 of 2015 (O & M)

Date of Decision: *April 07, 2015*

Parveer Kumar

..... PETITIONER

VERSUS

State of Haryana

..... RESPONDENT

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. K.D.S. Hooda, Advocate, for the petitioner.

Mr. C.S. Bakhshi, Additional Advocate General, Haryana.

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1. Whether Reports 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?

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Jaspal Singh, J

1. Petitioner has preferred instant petition under Section 438 Cr.P.C. seeking pre-arrest bail feeling apprehension of his arrest in case FIR No.32 dated January 31, 2015, under Sections 7 & 8 of Prevention of Corruption Act, 1988, Police Station, Meham, District Rohtak.
2. Tersely put, case of prosecution is that on January 31, 2015, Naresh Kumar – complainant moved an application before Mr. Vijay Pal, DSP (Head Quarter), Rohtak, unfolding that he is an

agriculturist by profession and had purchased a tractor make “Swaraj 855” from Swaraj Agency, Bhiwani Road, Rohtak, for a consideration of ₹ 6,34,000/-. A sum of ₹ 4,70,000/- was taken as loan by him from Kotak Mahendra, D Park, Rohtak. He had only deposited two instalments but subsequently failed to deposit regular instalments. On account of non-payment of instalments, bank officers accompanied by officials of Police Station, Meham, visited his house on January 28, 2015 and took away his tractor. Subsequently, he had taken back his tractor pleading that it will hamper his agricultural work. Thereafter, bank officer lodged a complaint in Police Station, Meham against him. SHO, Police Station Meham i.e. petitioner, put-forth a demand of illegal gratification and started extending threats that in case an amount by way of bribe is not paid, he will involve him in a case of dacoity and a case will also be registered against him for taking away tractor forcibly from bank officers. On March 31, 2015, SHO, Police Station, Meham arrested him alongwith the tractor and he was put behind bars. He rang up Sonu @ Anil, brother of petitioner, on his Mobile No.9416141725, who also demanded a sum of ₹ 1 lac to settle the matter. Ultimately, deal was settled to the tune of ₹ 45,000/- which was paid by him to Sonu @ Anil. Said amount was recovered from Sonu @ Anil when he was arrested after the registration of instant case.

3. Contention of learned counsel for petitioner is that petitioner has been falsely implicated in instant case and has no concern either with tractor or alleged demand of a sum of ₹ 45,000/- as illegal gratification. Moreover, petitioner is serving in Police Department since

December 19, 2001 and remained Incharge of various police stations from time to time and is having good service record to his credit.

4. It has further been contended that though petitioner has got no relation with Sonu @ Anil, yet if at all, recovery of alleged amount has already been effected from him. So, in the given circumstances, custodial interrogation of petitioner is not required. However, he is ready to join investigation and to abide by all the terms & conditions under Section 438 Cr.P.C. in case he is granted concession of pre-arrest bail.

5. This Court has given an anxious thought to aforesaid submissions made by learned counsel and perused the records available.

6. It is an undisputed fact that petitioner was posted as SHO, Police Station Meham and there was some dispute with regard to taking away of tractor which was taken on loan by complainant. As per allegations, tractor in question as well as complainant were taken to police station and complainant was sent behind bars. Conversation took place in between Sonu @ Anil, co-accused of petitioner, on his Mobile No.9416141725 and ultimately, an amount of ₹ 45,000/- was settled which was handed over to Sonu @ Anil. That amount was allegedly meant for petitioner. Sonu @ Anil was immediately arrested on the same date i.e. January 31, 2015, after registration of FIR. Recovery of amount of ₹ 45,000/- has been effected from his possession. Accused Sonu @ Anil, though, is not real brother of petitioner but it is alleged that he resides with petitioner in the premises of police station, and

further that, amount of illegal gratification was received by him on instructions of petitioner. Petitioner has also been placed under suspension after registration of FIR by his appointing & punishing authority.

7. Discretion envisaged under Section 438 Cr.P.C. is an extraordinary one which is required to be exercised sparingly that too, in case where allegations levelled either appear to be false or groundless but at this stage, no such opinion can be expressed in view of facts and circumstances of this case which have been discussed above.

8. Finding no merit in instant petition, same is accordingly dismissed.

April 07, 2015
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(Jaspal Singh)
Judge