

CRM-M-9729-2015

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9729-2015

Date of decision: 26.03.2015

Amit Kumar

.... Petitioner(s)

Versus

State of Punjab

.... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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 ?

Present: Mr. P.K.Kataria, Advocate,
for the petitioner.

PARAMJEET SINGH, J.

This is a petition filed under Section 438 of the Code of Criminal Procedure for grant of concession of pre-arrest bail to the petitioner in case FIR No.194 dated 03.07.2014, registered at Police Station Dharamkot, District Moga, under Sections 420 and 406 of the Indian Penal Code.

I have heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner vehemently contended that present dispute is of civil nature. The only intention of complainant is to

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recover the amount. The complainant has got the FIR registered as an arm-twisting. The petitioner has been falsely implicated in the present case. The matter is already pending before the Arbitrator at Chandigarh. The present FIR is misuse of process of law. A bare reading of FIR does not fulfil the ingredients of Sections 420 and 406 of the Indian Penal Code. Otherwise also, custody of alleged allotted paddy is joint.

I have considered the contentions of learned counsel for the petitioner.

Admittedly, M/s Gaurav Rice & Gen. Mills, Dharamkot, District Moga was allotted paddy. The petitioner is the sole proprietor of said firm. The said firm was allotted paddy weighing 44872.10 Qtls. i.e. 1,28,206 bags for custom milling for the year 2012-13. When physical verification of paddy stored with the firm/mill was conducted by Markfed Branch, Dharamkot on 31.07.2013, 66332 bags weighing 23216.20 quintals of paddy was found to be detected. In the light of this fact, it is clear that paddy was entrusted to the petitioner. However, half of allotted paddy was not found in the premises of the mill where it was stacked. Due to this, Markfed has suffered a loss of ₹ 4,29,863,06/-. A huge amount of Markfed has been allegedly misappropriated by the petitioner in connivance with the staff and officials of the Markfed. As per the norms/instructions, stock is to be kept under joint custody of the petitioner as well as officials of the Markfed. They are also required to depute chowkidar/security guards to supervise the same. The physical verification clearly indicates about the

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missing stock which was given to the petitioner, who is the sole proprietor of firm/mill. The petitioner has allegedly misappropriated the amount of more than ₹ 4 crores in connivance with the officials/officers of the Markfed. Besides this, there are catena of judgments of the Hon'ble Supreme Courts and High Courts that civil as well as criminal proceedings can go on simultaneously.

Without further going into merits of case and keeping in view the fact that huge quantity of paddy worth more than ₹ 4 crores has been misappropriated and also the fact that to unearth the scam, custodial interrogation of the petitioner is required, no ground is made out to grant concession of pre-arrest bail to the petitioner.

Dismissed.

26.03.2015
parveen kumar

(PARAMJEET SINGH)
JUDGE