

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

CRM-M-23164 of 2016.

Decided on:-01.08.2016.

Pargan Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Bipan Ghai, Senior Advocate with
Mr. Paras Talwar, Advocate
for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab.

Mr. Sumit Jain, Advocate
for the complainant.

HARI PAL VERMA, J.

The petitioner has approached this Court under Section 439 Cr.PC for grant of regular bail in case FIR No.16 dated 8.3.2016 under Sections 406,420 and 506 IPC registered at Police Station Rawalpindi, District Kapurthala.

On the basis of a complaint made by Manager, Punjab State Warehousing Corporation, State Warehouse, Phagwara (hereinafter called Corporation), the aforesaid FIR was registered against the partner of M/s Dashmesh Rice Mills, Phagwara in which the petitioner along with his wife Rita is a partner.

As per prosecution, during the Kharif market session 2015-16, M/s Dashmesh Rice Mills was allotted to the Punjab State Warehousing Corporation, a procurement agency by the concerned District Food Supplies Controller. Accordingly, the petitioner executed a milling agreement with the complainant for custom milling of paddy on the prescribed format for KMS 2015-16. The complainant had stored/delivered paddy for custom milled rice, but the accused failed to deliver the required resultant milled rice, leading to registration of the case.

On physical verification conducted by the team, shortage of 31889 bags of paddy stock was found. The team questioned the petitioner about the shortage of paddy against the required quantity, but the petitioner did not clarify the same, rather, threatened that in case he is again asked, he will commit suicide. The complainant has alleged misappropriation/defalcation by the partners of M/s Dashmesh Rice Mills and on this account, the corporation has suffered huge loss recoverable from the millers along with future interest from the date it becomes due to the date of final payment by the defaulter miller.

Learned senior counsel for the petitioner has argued that the petitioner is in custody since 7.4.2016 and after completing investigation, the police has submitted Challan against the petitioner on 3.6.2016. He states that in nutshell, accusation against the petitioner is regarding embezzlement of 31889 bags of paddy and in terms of monetary value, it would translate into Rs.4.50 crores approximately. As against this pointed amount, the

corporation has already sold the available stock by way of e-auctioning and after deduction of that amount, the embezzled amount has come to the tune of Rs.3.36 crores. He has further submitted that though earlier, the petitioner has approached this Court for the similar relief in ***CRM-M-17172 of 2016***, but at that stage, the matter was still under investigation. But now, since the Challan has been presented and the offence as alleged is triable by the Magistrate, no useful purpose would be served by keeping the petitioner in further custody. The conclusion of trial will take sufficient long time.

On the other hand, learned counsel for the respondent-complainant has submitted that even after e-auction of the part of paddy stock, a huge amount is outstanding against the petitioner. The huge stock of paddy allotted to the petitioner has been misappropriated by the petitioner.

I have heard learned counsel for the parties.

It is not in dispute that the petitioner is a partner in M/s Dashmesh Rice Mills which was entrusted with a huge stock of paddy by the corporation (complainant). The mill was required to deliver the resultant custom milled rice in the FCI (central pool). As per the agreement, a schedule of delivery of rice has been provided. The petitioner has failed to deliver the rice as per said schedule. Even when the Kharif market session was over and physical verification was conducted, the stock of paddy which was entrusted to the petitioner, was found missing. There was a shortage of 31889 bags of paddy at the spot. In fact, the petitioner was merely a custodian and was required to mill the paddy and to deliver resultant rice as

per schedule of delivery. The milled rice was further required to be distributed amongst the poor strata of the society i.e. through public distribution system. By not delivering the rice to the FCI (central pool), the petitioner has divested the poor strata from their legitimate expectation. The plea that the case is triable by Magistrate is of no relevance when such a huge amount is involved in the case.

In view of the above, this Court does not find any reason to admit the petitioner on regular bail. As such, the present petition is hereby dismissed.

It is made clear that the observations made hereinabove shall have no bearing on the merits of the case and are restricted for the purpose of decision of present petition only.

August 01, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes / No

Whether Reportable: Yes / No