

205.

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

CRM-M-27384-2016

Date of decision:09.11.2016

Karnail Chand

... Petitioner

versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Manjot Singh Cheema, Advocate,
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab

HARI PAL VERMA, J.

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.42 dated 24.02.2014 under Sections 420, 406 IPC and Section 7(1) of Essential Commodities Act, 1955, registered at Police Station City Tarn Taran, District Tarn Taran.

The petitioner was appointed as regular Road Transport Contractor for transporting rice from Ex.Tarn Taran to Valley (Srinagar) by the Food Corporation of India regional office (Punjab), Chandigarh, for a period of 2 years w.e.f. 28.09.2011. On 19.11.2012, the petitioner was assigned the contract for delivering rice from Ex.Tarn Taran to FSD-Lethepora. He loaded 8 trucks with 2590 bags of rice for onward delivery to Valley (Kashmir). The rice so delivered for transportation was put to quality check and it is on certification of the quality, the rice was loaded in

various trucks. However, at the destination, it was revealed that the rice in

those trucks was of inferior quality and the fine quality of rice was changed in transit into substandard rice. In this manner, the petitioner was booked for having committed criminal breach of trust and cheated the Food Corporation of India.

Learned counsel for the petitioner has argued the petitioner is innocent and has been falsely implicated on account of erroneous reasons. The FCI had issued notice to the petitioner, to which the petitioner replied satisfactory and it is only when the petitioner claimed payment, false accusation has been raised. The total payment of ₹26 lakhs is pending against the FCI, but instead of making payment, the petitioner has been dragged into criminal litigation. The petitioner has been made the scapegoat to the misdeeds committed by the FCI. He further states that the complainant has itself presumed the bad quality of rice without any conclusive report.

On the other hand, learned State counsel has argued that the petitioner was entrusted with fine quality of rice, but at the destination, it was noticed that the same quality of rice has not reached, rather it was found of inferior quality and in this manner, the petitioner has committed criminal breach of trust. He further states that the FCI had constituted a Committee consisting of officials of Quality Control who have checked the stock so entrusted to the petitioner for onward delivery at the destination and has found that only 670 bags were identified as Tarn Taran Stock of Shiva Rice Mills and Modern Foods and rest of the bags could not be identified as Tarn Taran Stocks as large number of bags were without any stencilling or marka and contact number. Name of rice mills and stencilling were not recorded on the said stock.

Heard, learned counsel for the parties.

The petitioner was entrusted with 2590 bags of fine quality of rice from Tarn Taran but at the destination, it was found that only 670 bags were identified as Tarn Taran Stock of Shiva Rice Mills and Modern Foods bearing respective contract numbers. In FCI, each stock is identified on the basis of marka, stencilling, contact number and name of Mills etc. but except 670 bags, other bags i.e. 1920 bags were not identified in the manner in which they were required to be identifiable. The stock transported by the petitioner was subjected to stock verification by a Committee consisting of two Managers (Quality Control) of FCI from within the office at Srinagar and FCI, Tarn Taran and two Managers (Depot) were also associated from the District Office, Srinagar and FCI FSD-Lethpora Camp. Even the Manager (Movement) District Office, Amritsar, Camp Lethpora was also a member of the Committee. The said Committee has found that the stock which was unloaded from 8 transported truck existed in a mixed condition in the stacks. The relevant part of the report reads as under:-

“1. As per stock verification certificate approximately 670 bags were identified as Tarn Tarn Stock of Shiva Rice Mills bearing contact nos.327, 675, 676, 680, 681, 682 & Modern Foods bearing contact nos.378. Also the stencilling on these bags have been verified & found genuine. And rest of the bags could not be identified as Tarn Taran Stocks, as large no. of bags were without any stencilling or marka & also contact no. name of rice mills and stencilling wherever available did not matches with the dispatched stocks from FSD Tarn Taran. Hence it looks the stocks could have been replaced.

2. xxx xxx xxx

CONCLUSION

From the above it is palpably clear that the stocks which have been unloaded from those eight transhipped trucks

existed in mix condition in the stacks. As approximately 670 bags were identified (out of 2590 dispatched bags) as Tarn Taran Stock & rest of the bags could not be identified as Tarn Taran Stock as mentioned by Manager (QC) FCI FSD Tarn Taran. Therefore it is quite clear that the stocks which have been unloaded from those eight transshipped trucks barring appropriately 670 genuinely identified have been replaced. This committee concludes that necessary action may be taken against the RTC as per MTF for manipulation/misappropriation/Replacement of FCI stocks.”

In view of the report prepared by the senior officers of the FCI and the fact that the petitioner has not delivered/transported the stock which was entrusted to him, no ground for grant of anticipatory bail to the petitioner is made out.

Accordingly, the present petition stands dismissed.

(HARI PAL VERMA)
JUDGE

09.11.2016
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No