

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

CRM-M-28573 of 2016 (O&M).
Decided on:-05.10.2016.

Vikram Hari Awasty.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. R.S. Cheema, Senior Advocate with
Mr. R.K. Trikha, Advocate and

Mr. Vinod Ghai, Senior Advocate with
Mr. Simardeep S. Sandhu, Advocate
for the petitioner.

Mr. Vishal Garg, Addl. A.G., Haryana.

Mr. Birender Singh Rana, Senior Advocate with
Mr. Vivek Goyal, Advocate
for the complainant.

HARI PAL VERMA, J.

Vikram Hari Awasty, the petitioner, has filed the present petition under Section 439 Cr.P.C. for grant of regular bail in case i.e. FIR No.31 dated 27.1.2016 under Sections 406, 420, 506 and 120-B IPC registered at Police Station Butana, District Karnal.

The aforesaid FIR was registered on the basis of complaint made by Sunder Lal, proprietor of M/s Pawan Trading Company, resident of Anaj Mandi, Nigdu, P.S. Butana, District Karnal.

Mr. R.S. Cheema, learned senior Advocate for the petitioner has argued that the petitioner is in custody since 1.8.2016 and he is in illegal confinement as he is no more on the roll of the company. Even bare perusal of the FIR would show that there is no allegation against the petitioner. The petitioner was neither incharge nor dealing with day to day affairs of the company in any manner. At the most, the only allegation against the petitioner is that he and the other accused in the company have assured that the complainant would be made timely payment in the event of supply of paddy. He has further argued that after the year 2010, the petitioner is no more the director of the company, as he has ceased to be the director of the company w.e.f. 1.12.2010. He has referred list of directors prepared on the basis of Annual Return considered in the annual general meeting of the company held on 30.9.2011.

Mr. Cheema, learned senior Advocate has also produced the copy of police report prepared under Section 173 Cr.PC in the case. On the basis of said report, he has submitted that in the investigation so conducted by the prosecution, no material has come on record which may even warrant arrest of the petitioner. The petitioner is not a share-holder in the company which can be ascertained on the basis of details of shares/debentures prepared on the basis of annual general meeting held on 30.9.2011. The shares which were earlier in the name of the petitioner were already transferred on 1.12.2010 in the name of Ritika Awasty i.e. other director in the company. The petitioner has unnecessarily been roped in the case being a

family member of other accused who are the directors in the company.

On the other hand, Mr. Birender Singh Rana, learned senior counsel appearing for the complainant has argued that the complainants are guarantors and the petitioner was one of the directors in the company which is fully established on the basis of the Memorandum and Articles of Association of M/s Bush Food Overseas Private Limited. The petitioner has been projecting himself to be a director in the company and the fact that the petitioner is no more director in the said company was never made public and complainants were never informed about this fact. The petitioner and other co-accused belong to one family and they in conspiracy with each other have usurped huge amount around Rs.7.50 crores, belonging to the complainant and other innocent persons.

Mr. Rana, learned senior Advocate has further argued that the outstanding amount had continued since the year 2009-10 till 2013-14 though with certain variation from time to time, of course, depending upon the purchase of paddy and receipt of payment thereof. Since the petitioner and other co-accused have never informed the complainant or the Market Committee about his retirement from directorship, they are liable and responsible for the affairs of the company. The role of the petitioner cannot be segregated and he is equally guilty in view of Section 120-B IPC. The complainants have been cheated by the directors of the company and the petitioner was one of the directors as reflected in the Memorandum of

Association of the company. Therefore, he has prayed for the dismissal of the present petition.

I have heard learned counsel for the parties.

From the perusal of the annual return of the company as referred in the annual general meeting held on 30.9.2011, which is available with the Registrar of Companies and, therefore, a public document, it transpires that the petitioner had ceased to be a director of the company w.e.f. 1.12.2010 whereas the allegation against the accused relates to the year 2013-14. The plea as raised by the complainant that he and other persons are guarantors and they were not informed by the petitioner-accused that he has ceased to be a director in the company, is without any merit. It was incumbent upon the complainant to update his record more particularly when the record maintained by the Registrar of Companies is a public record. Even otherwise, only allegation against the petitioner-accused is that he has assured the complainant and other persons that they will be given timely payment in the event of supply of paddy. Since the petitioner is not on the roll of the company, having ceased to be a director w.e.f. 1.12.2010, his liabilities would be ascertained only during the trial of the case. Even the report so prepared under Section 173 Cr.PC does not depict any serious involvement of the petitioner. Further, the petitioner is in custody since 1.8.2016 and the conclusion of trial will take sufficient long time, therefore, this Court feels that it is a fit case where the petitioner deserves concession

of bail.

Accordingly, the present petition is allowed and the petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court. Taking into consideration the huge amount involved in the case, the trial Court may impose any other reasonable condition, as it may deem fit in the peculiar facts and circumstances of the case.

It is made clear that the observations made hereinabove shall not construe any expression on the merits of the case. The observations are only for the restricted purpose of deciding the present petition for regular bail.

October 05, 2016

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes / No

Whether Reportable: Yes / No