

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

CRM-M-41186 of 2016

Date of Decision: November 23, 2016

Anuj Dwivedi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. C.S. Brar, DAG, Punjab.

Mr. Vipin Mahajan, Advocate
for the complainant.

FATEH DEEP SINGH, J.

The allegations in this regular bail application under Section 439 Cr.P.C. against the petitioner Anuj Dwivedi, who happens to be the Assistant General Manager, Agro Division owned by Cadila Pharmaceuticals (hereinafter referred as 'Company') are that the Company entered into an agreement with the complainant Rajiv Vashisht, one of the partners of M/s R.K. Food Grain Market Lodhiwal (in short 'the firm'), whereby, the firm was supposed to supply duly certified and licenced potato seeds to the Company which the Company was to distribute amongst the growers in various States. It transpired that in pursuance of this written agreement the firm supplied seeds but the same were not of the desired quality and were infested unfit for sowing and as a consequence of which, a dispute had arisen leading to registration of the present FIR against the

Company by the said Firm on account of outstanding dues alleged to be to the tune of Rs.9,85,71,774, out of which it is claimed that Rs.3,62,00000/- was paid and subsequently on account of non-payment of the balance amount of Rs.6,23,71,774 the present allegations have come about.

The contentions of the learned counsel for the petitioner that it is a pure and pure civil dispute over business transaction and rather despatching defective potato seeds contrary to the agreement the complainant has acted fraudulently and has devised a way and means of registering the present case on false and fictitious grounds as a counter blast to thwart off likelihood of any civil or criminal action by the Company and and has sought reliance on *Hotline Teletubes and Components Ltd vs. State of Bihar 2005(10) SCC 261; Veer Prakash Sharma vs. Anil Kumar Agarwal 2007(3) RCR (Criminal) 960; Sharon Michael vs. State of Tamil Nadu 2009(1) RCR (Criminal) 759; Hridaya Ranjan Pd. Verma vs. State of Bihar 2000(2) RCR (Criminal) 484; Vesa Holdings P.Ltd. and another vs. State of Kerala and others 2015(2) RCR (Criminal) 442; Sunil Bharti Mittal vs. Central Bureau of Investigation 2015 (2) RCR (Criminal) 1; S.K. Alagh vs. State of U.P. and others 2008(2) RCR (Criminal) 79 and Arnesh Kumar vs. State of Bihar and another 2014 (3) RCR (Criminal) 527.*

On behalf of the State not much resistance could be offered by Mr. Brar, who could not highlight by any means how any criminality is involved but learned counsel for the complainant has sought to highlight apathy of his client in not getting his money back on account of payment so due.

Appreciating the submissions, by all means it is an

agreement of contract between the petitioner Company and complainant firm for the supply of potato seeds which needs to confirm with the laid specifications and which abundantly reflects from the test results that these were not of the prescribed standards and desired quality and, therefore, dispute over defective goods having been supplied which is a subject matter of civil dispute. How criminality has been attributed to the petitioner and his Company rather reflects upon the clout wielded by the complainant side who apparently in league with the Police as cohorts has rather sought to bring about Police tyranny by their autocratic and partial approach without properly investigating the allegations together with the settled proposition of law cited at bar. The trial is not likely to be concluded in near future and no useful purpose would be served by keeping the petitioner behind the bars. Without adverting on the merits of the case, impels this Court to allow the present petition for grant of regular bail. Petitioner be admitted to bail to the satisfaction of the trial Court.

It would subserve the ends of justice if by exercising inherent powers of this Court directions be issued to the Director General of Police, Punjab to ensure due administrative action against the Police officials who have been instrumental in registration of such a case and least to say to have rather misused the powers that the law vests in them.

(FATEH DEEP SINGH)
JUDGE

November 23, 2016

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No