

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM No. M- 18562 of 2016 (O&M) Date of Decision: 23.01.2017

Khalil Ahmed

--Petitioner

Versus

State of Haryana

--Respondent

2. CRM No. M- 19577 of 2016 (O&M)

Shamim Ahmed

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. D.K. Sharma and Mr. Rajesh Lamba, Advocates
for the petitioners.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Anand Bhardwaj, Advocate for the complainant.

TEJINDER SINGH DHINDSA.J

This order shall dispose of CRM No. M- 18562 of 2016 (Khalil Ahmed Vs. State of Haryana) and CRM No. M-19577 of 2016 (Shamim Ahmed Vs. State of Haryana) as both these petitions have been filed under Section 438 Cr.P.C seeking the benefit anticipatory bail to the petitioners in case F.I.R. No.46 dated 03.11.2015 under sections 406, 409, 420, 120-B, 467, 468, 471 I.P.C and Section 13(1)(d) of the Prevention of Corruption Act, registered at Police Station, SVB Gurgaon, District Gurgaon.

Learned counsel for the parties have been heard.

Shamim Ahmed i.e. petitioner in CRM No. M-19577 of 2016 is stated to be proprietor of Dihana Enterprises and which is engaged in the work of providing sprinklers for irrigation purposes. Khalil Ahmed i.e. petitioner in CRM No. M-18562 of 2016 is a District Horticulture Officer under the Department of Horticulture, State of Haryana.

Allegations in a nutshell against the petitioners in these two petitions are that they have acted in connivance and collusion and thereby misappropriated and embezzled the amount of subsidy given by the government for providing sprinklers/drip irrigation system for irrigation purposes.

On 26.05.2016, while issuing notice of motion in CRM No. M-18562 of 2016, the following order was passed by this Court:-

“Petitioner, in the capacity as District Horticulture Development officer, is alleged to have misappropriated and embezzled the amount of subsidy given by the government for providing sprinklers etc. for irrigation purposes and caused a total loss of Rs.1,04,20000/-.

Counsel for the petitioner submits that as a matter of fact, the petitioner does not have any role in the disbursement of the amount of subsidy and that he does not deal with the utilisation of the subsidy amount, in any manner.

Notice to the Advocate General, Haryana, for 14.7.2016.

Meanwhile, an interim direction is issued that the petitioner will join investigation on or before 11.6.2016. In case of petitioner doing so, he shall be released on interim bail to the satisfaction of the arresting officer.

The Investigating Officer shall make available the material gathered against the petitioner in context to the allegation of misappropriation of money meant for subsidy.”

Likewise, the notice of motion order dated 01.06.2016 passed in CRM No. M-19577 of 2016 reads in the following terms:-

“Petitioner is proprietor of Dihana Enterprises which provided sprinklers for irrigation purposes. The criminal case has been registered on the allegations that the petitioner along with other officials has misappropriated and embezzled the amount of subsidy given by the Government for providing sprinklers.

Notice to the Advocate General, Haryana, for 14.7.2016.

Meanwhile, an interim direction is issued that the petitioner will join investigation on 11.6.2016 and 25.6.2016. In case of petitioner doing so, he shall be released on interim bail to the satisfaction of the arresting officer.

The investigating officer shall report regarding the evidence gathered against the petitioner indicating his culpability.”

Learned State counsel apprises the Court that the petitioners herein in these two connected petitions have since joined investigation.

However, the prayer made on behalf of the petitioners is vehemently opposed by learned State counsel as also counsel appearing for the complainant by submitting that it is a case of embezzlement of a huge sum of money belonging to the State exchequer. Further contended that sprinklers system/drip irrigation system have been shown to be installed in the names of certain farmers/agriculturists on papers alone without there being any such development on the ground and the corresponding amounts of subsidy have been syphoned away.

It goes without saying that the allegations on the face of it against both the petitioners are rather grave and serious. Be that as it may, the petitioners have joined investigation.

Learned State counsel upon instructions from Inspector Kulwant Singh, Police Station S.V.B, Gurgaon has stated that the statements

of all the witnesses have already been recorded. It has also gone uncontroverted that the entire and relevant record pertaining to the accusations are already in possession of the Investigating Agency. State counsel submits that the matter is now at the stage of submitting challan/final investigation report.

In view of the circumstances noticed herein above, I am of the considered view that custodial interrogation of the petitioners herein would not be warranted.

Accordingly, without making any observations on merit, both the petitions are allowed. Order dated 26.05.2016 passed in CRM No. M-18562 of 2016 and dated 01.06.2016 passed in CRM No. M-19577 of 2016, are made absolute.

Petitions disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

23.01.2017

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Whether speaking/reasoned: Yes
Whether Reportable: Yes