

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

**Crl. Misc. No.M-22236 of 2017 (O&M)
Date of Decision: July 06, 2017.**

Parkash Radheysham Mishra

.....PETITIONER(s).

VERSUS

State of Haryana

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Bipin Ghai, Senior Advocate with
Ms. Sharmila Sharma, Advocate
for the petitioner (s).

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 31 dated 27.01.2016 registered for the offences punishable under Sections 406, 420, 506 read with Section 120-B of Indian Penal Code, at Police Station Butana, District Karnal.

Heard.

Notice of motion.

On asking of the court, Mr. Deepak Grewal, DAG, Haryana, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

Mr. Vivek Goyal, Advocate, who is present in the Court, has put in appearance on behalf of complainant.

As per complainant Sunder Lal, a commission agent, he was

cheated by petitioner and other Managing Directors of Bush Foods Overseas Pvt. Ltd. to whom he had been supplying paddy. On the assurance given by co-accused of petitioner namely Vir Karan Awasty and Vinod Kumar, complainant stood guarantor before Market Committee against the liabilities of Bush Goods and received payments upto 2013, which was later on stopped. On enquiry, he came to know that Directors of the company had sold 69.5% shares of the company to Hassad Food Company owned by Qatar Investment Authority for ₹750 crores. Complainant requested existing as well as retired Directors of the company to pay amount of ₹6,86,000,462/- which was found due against them but the same was not paid.

Learned counsel for the petitioner submits that the outstanding dues against the petitioner pertains to the year 2013 and before, while the petitioner was appointed Director of Bush Foods Overseas Pvt. Ltd. on 02.10.2014. Accounts of the company were freezed by Delhi High Court in a petition filed by Bharat Bhushan Bansal, vide order dated 21.01.2015 (Annexure P-11). These orders were modified on 17.07.2015 (Annexure P12) to the extent that payment of salaries of employees and day to day operation and legal expenses of Bush Goods be drawn from one account of the company. Winding up proceedings are pending before the Court and the petitioner is not in a position to make any payment to the complainant claimed by him.

Learned State counsel and learned counsel for complainant have argued that petitioner despite freezing of the account, withdrawn amount of ₹1.5 crores from the account of Bush Foods and transferred the

same to his account. He is the person who has played fraud not only with the complainant but also with the Court.

The dispute in this case is with regard to the outstanding liabilities of Bush Foods. Winding up proceedings are pending in Court. The case is based on documentary evidence. No purpose will be served by keeping the petitioner, who is in custody, in jail for indefinite period. The other co-accused namely Vikram Hari Awasthy has been released on regular bail vide order dated 05.10.2016 passed in CRM-M-28573-2016.

Keeping in view all the above facts and that conclusion of investigation and presentation of challan will take considerable long time, the present petition is allowed. Petitioner Parkash Radhey Sham Mishra is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Karnal subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without the prior permission of the Court.

(SURINDER GUPTA)
JUDGE

July 06, 2017
Sachin M.

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No