

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

CRM-M-27055-2015 (O&M)

Date of decision : 31.01.2017

AVINASH JAIN

...Petitioner (s)

Versus

STATE OF PUNJAB

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Raghav Gulati, Advocate and
Mr. Ashwani Markenday, Advocate
for the petitioner (s).

Ms. Harsimrat Rai, DAG, Punjab
assisted by ASI Kashmir Singh.

Mr. Tejeshwar Singh, Advocate
for the complainant.

JITENDRA CHAUHAN, J. (Oral)

By filing the present petition under Section 438 of the Code of Criminal Procedure, the petitioner has sought anticipatory bail in a case FIR No.65, dated 23.07.2015, registered under Sections 406 and 420 of the Indian Penal Code, at Police Station City Amargarh, District Sangrur.

Contents that the physical verification in terms of Item No.10 of Memo of the Punjab Government, Department of Food, Civil Supplies & Consumer Affairs (Rice Procurement Branch) (Annexure P-5) was not

carried out. The petitioner was allegedly declared defaulter for the year 2009-10 for not supplying the requisite quantity allotted to him, therefore, he could not have been allotted the paddy for milling in the year 2010-11. The arbitration proceedings are under challenge.

On the other hand, the learned counsel for the complainant states that in fact, the physical verification report was appended with the reply filed by the Corporation. As per the physical verification, the petitioner was entrusted with 9975 quintals of paddy in 28500 bags. The petitioner was under the obligation to return the same after milling to the extent of 67% i.e. 6683.25 quintals, therefore, petitioner is clearly short of 4533.25 quintals and the approximate value of the same comes to Rs.1,00,05,000/-.

I have heard the learned counsel for the parties and carefully perused the entire record on file.

The physical verification was carried out in terms of Annexure P-5. It is not disputed that the petitioner was entrusted 9975 quintals of paddy in 28500 bags and he has not returned 4533.25 quintals, the value of which approximately comes at Rs.1,00,05,000/-. During the course of arguments, an offer was made to petitioner to pay the value of the paddy, however, he states that arbitration award stands challenged, therefore, he is not liable to pay anything. In view of the entrustment, which is duly documented, no case for bail is made out.

Dismissed

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

31.01.2017
ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No