

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-36803 of 2016 (O&M)
Date of Decision: 28.02.2017

Rajiv Garg

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Ms. Nupur Chaudhary, Advocate for the petitioner.

Mr. C.S. Bakshi, Addl. A.G., Haryana.

TEJINDER SINGH DHINDSA.J

The instant petition has been filed under Section 438 Cr.P.C seeking concession of anticipatory bail to the petitioner in case FIR No.60 dated 15.6.2016 registered under sections 406, 420 I.P.C at Police Station, Dandh, District Kaithal.

FIR in question has been registered on a complaint having been forwarded by the Food & Supplies Department, State of Haryana with regard to the paddy stock having been entrusted to M/s Shakti Trading Company as also M/s Des Raj Rajiv Kumar and there having been a corresponding shortfall of supply of the custom milled rice pertaining to Paddy Season 2014-2015. Suffice it to notice that the shortfall of custom milled rice pertaining to both the companies when quantified in pecuniary terms translates to Rs.14 crores approximately.

It is the case set out on behalf of the petitioner that he is a partner in M/s Shakti Trading Company and has no concern with M/s Des Raj Rajiv Kumar which is stated to be a proprietorship firm.

It has also been argued by counsel appearing for the petitioner that in so far as M/s Shakti Trading Company is concerned, the Food &

Supplies Department, State of Haryana has even conducted an auction to make good the loss and in such auction held on 7.7.2016 a revenue of Rs.2,28,00,000/- approximately already stands generated. Further submitted that an application for appointment of an Arbitrator already stands filed on behalf of M/s Shakti Trading Company. Counsel submits that the complainant department has also initiated proceedings under the Negotiable Instruments Act. Under such circumstances, it is contended that the petitioner deserves the concession of pre-arrest bail.

With regard to the prayer raised in the instant petition, it would be useful to advert to an affidavit dated 27.1.2017 of the District Food & Supplies Controller, Kaithal and which stands placed on record.

Perusal of the affidavit would clearly reveal that after entrustment of stock paddy there is a shortfall of custom milled rice from both M/s Des Raj Rajiv Kumar as also M/s Shakti Trading Company to the extent of Rs.14 crores approximately. Learned State counsel does not dispute the fact that an auction to recover the shortfall and to make good the losses was conducted and which generated a revenue of Rs.2,28,00,000/- approximately. His stand is that both these companies operate from a common premises and as such, it would be difficult to take a conclusive stand as regards such revenue having been generated from which of the two companies.

The stand taken on behalf of the petitioner as regards having no concern with M/s Des Raj Rajiv Kumar does not inspire confidence.

Appended along with the affidavit filed on behalf of the complainant department and at Annexure R-2 is an agreement dated 3.10.2014 between the District Food & Supplies Controller and M/s Des Raj

Rajiv Kumar and which carries the signatures of the present petitioner in the capacity of partner/G.P.A. The contents of the agreement are not even disputed by counsel appearing for the petitioner. It is difficult to fathom as to how the present petitioner had appended the signatures on such agreement in the capacity of a partner as opposed to the stand being taken during the course of arguments that M/s Des Raj Rajiv Kumar was a sole proprietorship firm and under the name of the mother of the petitioner.

Keeping in view the enormous shortfall of custom milled rice carrying a value of approximately Rs.14 crores and against which the department as of date has only been able to make good the shortfall only to the extent of Rs.2.3 crores by conduct of an auction and coupled with the fact that it is the conceded case of the petitioner himself that he is a partner in M/s Shakti Trading Company, this Court is not inclined to extend in his favour the concession of anticipatory bail.

Petition, accordingly, is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

28.02.2017

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Whether speaking/reasoned: Yes
Whether Reportable: Yes