

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-4319 of 2016 (O&M)
Date of Decision: 27.01.2017

Ashok Kumar

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Aminder Singh, Advocate for the petitioner.

Mr. Neeraj Sharma, A.A.G., Punjab.

Mr. Aman Sharma, Advocate
for the complainant.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 438 Cr.P.C praying for the grant of anticipatory bail to the petitioner in case F.I.R. No.35 dated 14.07.2014 under sections 420, 406, 409 I.P.C and Section 7 of Essential Commodities Act, registered at Police Station, Mehal Kalan, District Barnala.

On 08.02.2016, while issuing notice of motion, the following order was passed by this Court:-

“Counsel would, inter alia, contend that Nitesh Kumar who was also a partner of M/s Sh. Kuber Rice Mills has been granted benefit of regular bail vide order dated 18.01.2016 passed by this Court in CRM No. M-1107 of 2016. It is also contended that the accusations are against the firm in question with regard to misappropriation and embezzlement of 9800 quintals of paddy. Further submitted that residential property of the partner of the firm i.e. co-accused Nitesh Kumar carrying a value in excess of Rs.2 crores has already been mortgaged with PUNSUP and as such the interest of the procurement agency is well protected.

Notice of motion, returnable for 28.04.2016.

In the meanwhile, petitioner is directed to appear before Investigating Officer and to join investigation.

In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting/Investigating Officer. The petitioner shall join investigation as and when called upon to do so and he shall remain bound by the conditions envisaged under Section 438 (2) Cr.P.C.”

Learned State counsel upon instructions from HC Jaswinder Singh would apprise the Court that the petitioner has since joined investigation.

It has also been submitted that Nitesh Kumar, co-accused and against whom there are identical allegations, investigation already stands concluded and even the challan has been submitted. Nitesh Kumar has already secured benefit of bail from the competent court.

Learned State counsel further submits that in so far as the present petitioner is concerned, the only impediment as regards filing of the final investigation report qua him is the pendency of the present petition.

In view of the fact that the petitioner has joined investigation and the investigation process itself is at the final stage, this Court is of the considered view that the present petitioner is entitled to the concession of anticipatory bail.

It may further be noticed that the observations contained in the notice of motion order have also gone un rebutted.

Accordingly, the present petition is allowed. The order dated 08.02.2016, passed by this Court, is made absolute.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

27.01.2017
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Whether speaking/reasoned: Yes
Whether Reportable: No