

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

**CRM-M-25964-2018
Date of decision: 17.10.2018**

Sanjeev Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Munish Gupta, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, DAG, Punjab.

Mr. L. S. Mann, Advocate
for respondent No. 2.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No. 71 dated 19.05.2018, under Sections 406, 420 and 120-B of the IPC, registered at Police Station Fatehgarh Sahib, District Fatehgarh Sahib.

Learned counsel for the petitioner has submitted that prior to registration of the present FIR, another FIR No. 103 dated 23.12.2015 was registered against the petitioner and his brother at Police Station Rajpur, District Patiala, under Sections 406, 420 and 120-B of the IPC and the allegations in the said FIR as well as in the present FIR are identical in nature. Learned counsel for the petitioner further submits that in the said FIR No. 103, the petitioner was granted regular bail by this Court, vide order dated 17.08.2016 passed in CRM-M-13535-2016. The operative part of the order reads as under:

**“The present petition has been filed under Section 439
of the Code of Criminal Procedure (for short, 'the**

Cr.P.C.') seeking regular bail in case FIR No.103 dated 23.12.2015, registered under Sections 406, 409, 420, 201, 120-B and 506 of the Indian Penal Code (for short 'the IPC'), at Police Station Sadar, Rajpura. In pursuance of order dated 11.08.2016, the demand draft of ₹10,04,008/- drawn in favour of Registrar of this Court has been handed over in the Court and photocopy of the same is taken on record as Mark 'A'. The draft be delivered to the Office of the Registrar General. In view of the fact that the entire amount received by the petitioner against Form 'J' qua him has been repaid, the learned counsel for the petitioner states that the petitioner has made the entire payment. This factum is duly acknowledged by the learned counsel for the complainant. In view of the above, the present petition is allowed, complainant is at liberty to move an appropriate application for disbursement of the amount, tendered by the petitioner in the name of the learned Registrar General as per the entries reflected in 'J' Form. It is clarified that subsequent to filing of the bail application Sections 409, 201 and 506 IPC have been added in the FIR and the present order shall include these Sections as well. As the entire liability as per the FIR stands discharged and the petitioner is in custody since 12.02.2016, this Court feels that no useful purpose would be achieved in keeping the petitioner behind the bars. In view of above, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on his furnishing bail bonds/surety bonds, to the satisfaction of the trial Court.”

Learned counsel for the petitioner has further submitted that the present FIR has now been registered with the similar set of allegations

pertaining to the crop year 2015 after three years of the alleged incident and there are two separate firms of the petitioner and his brother.

Learned counsel for the petitioner further submitted that the present FIR has been registered at Police Station Fatehgarh Sahib in whose jurisdiction, no offence was committed as it is the case of the complainants that they have sold their agricultural produce at the shop of the petitioner and his brother at Rajpura, Patiala.

In reply, learned State counsel, on instructions from the Investigating Officer, assisted by learned counsel for the complainant, has, however, opposed the grant of bail to the petitioner on the ground that there are allegations of cheating of huge amount of ₹3.72 Crore as the complainants have sold their crop and the petitioner has failed to pay the amount thereof.

Learned State counsel, on the basis of the affidavit of ASI Sukhwinder Singh, has further submitted that on 22.02.2018, some of the farmers have given a complaint that the petitioner and his co-accused, who are having the firms, namely M/s Krishan Chand Sanjeev Kumar and M/s Krishan Chand Rajesh Kumar, have cheated them by taking their agricultural produce and by not paying the amount thereof. It is further stated in the affidavit that the partners of these firms used to give receipts/'J' forms to the farmers and thereafter close their business. Therefore, a preliminary inquiry was conducted and thereafter, on the directions of SSP, Fatehgarh Sahib, based on the said inquiry, the present FIR was registered.

It is further submitted by learned State counsel that co-accused of the petitioner, namely Rajesh Kumar, is in judicial lock up for the last two and a half year and he had made a disclosure that it is the petitioner who is in custody of the entire money.

Learned counsel for the complainants submitted that the complainants are selling their crop at the shop/firms of the petitioner and the petitioner has failed to make the payment which is due in crores of rupees and the FIR was registered after an inquiry was conducted by the Police Station Fatehgarh Sahib and the petitioner is a partner in the commission agent firms which have received the crop from the complainants/farmers who had sold the same on the assurance given by the petitioner that the sale price will be paid to them, however, the petitioner and his brother have failed to pay the amount and have cheated the poor farmers by breaching the trust. It is further stated that since a huge amount is due against the petitioner, he is not entitled to get the concession of anticipatory bail.

After hearing learned counsel for the parties, I find no ground to grant anticipatory bail to the petitioner.

The arguments raised by learned counsel for the petitioner that there are two different firms is refuted by the Investigating Officer in his affidavit as noticed above, rather in investigation, it has come that the co-accused has disclosed that entire money is with the petitioner.

Therefore, considering the serious allegations in the FIR in which poor farmers have been cheated by the petitioner and his co-accused, the custodial interrogation of the petitioner is required.

Hence, the present petition is dismissed.

October 17, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*