

Sr. No.206

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

CRM No. M-43765 of 2017 (O&M)

Date of Decision: 26.04.2018

Rakesh Kumar

... Petitioner

Versus

State of Punjab

... Respondent

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

Present:- Mr. C.M.Munjal, Advocate
for the petitioner.

Mr. S.S.Sandhu, AAG, Punjab.

Mr. Aman Bansal, Advocate and
Ms. Nidhi Kalia, Advocate for
Mr. Rajesh Punj, Advocate,
for the complainant(s).

TEJINDER SINGH DHINDSA, J.(ORAL)

CRM No.1708 of 2018

Application is disposed of as not pressed.

Main Case

This order shall dispose of the instant petition preferred under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.61 dated 23.5.2017, under Sections 406, 420, 467, 468, 471, 120-B IPC and Section 09 of Prevention of Corruption Act, 1988 registered at Police Station Tapa, District Barnala.

Counsel for the parties have been heard.

FIR came to be registered on the complaint of Amandeep Singh.

Present petitioner is stated to be a partner in a commission agent firm. Other co-accused are members of his family i.e. father and wife etc.

Allegations are that the crop pertaining to kharif 2016 season i.e. paddy consisting of 1550 bags were delivered to the firm but the accounts have not been settled. As per complainant, the value of such crop that had been sold to the firm of which the present petitioner is a partner carries a value of almost Rs.09 lacs. Even 'J' forms have not been delivered.

The instant petition came up for preliminary hearing on 20.11.2017 and petitioner was granted interim protection subject to his joining investigation.

Learned State counsel upon instructions from Inspector Manjit Singh apprises the Court that petitioner has since joined investigation.

However, prayer for anticipatory bail is opposed by learned State counsel as also counsel representing the complainant by contending that during the course of investigation, statements of 22 other farmers have been recorded and who are alleged to have been defrauded and cheated in the same manner.

Counsel representing the petitioner stoutly refutes the allegations that have been levelled. It is contended that petitioner has since joined investigation and has cooperated with the investigating agency. He further submits that the complainant at no point of time had sold the crop to the firm of which the petitioner is a partner and as such there was no occasion for him to furnish the records pertaining to purchase of crop from the complainant.

During the course of arguments, it has gone uncontroverted that the firm in question of which petitioner is a partner holds a valid commission agent licence granted by the competent authority.

On a specific query having been put, State counsel has not

been able to advert to any evidence collected by the agency from the Market Committee concerned as regards selling of the crop at the hands of the complainant or the other farmers whose statements have been recorded to the firm in question.

Counsel representing the complainant also concedes that till date no steps have been taken insofar as reporting the matter to the competent authority and under whose control and supervision the commission agency runs its operations.

It is also an admitted position of the fact that the other co-accused have either been granted the benefit of regular bail or have been granted the concession of pre arrest bail.

In the totality of circumstances, petitioner having joined investigation, his custodial interrogation as such would not be warranted.

Prayer made in the instant petition is accepted. Order dated 20.11.2017, passed by this Court is made absolute.

Disposed of.

Pending application, if any, shall also stand disposed of.

26.04.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No