

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

1. CRM-M-47292-2018

Kuldeep Sharma

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-41232-2018

Satbir Sharma

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision: 06.12.2018

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. K. Jain, Advocate
for the applicant-petitioner in CRM-M-47292-2018.

Mr. N. S. Shekhawat, Advocate
for the petitioner in CRM-M-41232-2018.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-42249-2018 in CRM-M-47292-2018

Allowed as prayed for.

Affidavit is taken on record.

Main cases

This common order shall dispose of above noted two petitions
as they arise out of the same FIR.

These petitions have been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to petitioners Kuldeep Sharma and Satbir Sharma in case FIR No. 890 dated 04.09.2017, registered under Sections 406 and 420 of the IPC at Police Station Sadar Karnal, District Karnal.

Learned counsel for the petitioners submit that as per the allegations in the FIR, the complainant-HAFED entered into an agreement with M/s Swastik Enterprises (Miller), in which, both the petitioners are partners and as per the agreement, HAFED was to supply paddy to the said firm and after milling the same, the custom mill rice was to be delivered back to HAFED. However, the petitioners failed to deliver back custom milled rice and the FIR was registered.

Learned counsel for the petitioners further submit that in the said agreement, the petitioners have also provided collateral security for any default on their part and there is an arbitration clause No. 26 in the agreement and without invoking the same, the present FIR has been registered.

Learned counsel for the petitioners further submit that petitioner Kuldeep Sharma is in judicial custody since 20.02.2018, whereas, petitioner Satbir Sharma is in judicial custody since 02.05.2018 and challan stands presented and charges have been framed. It is further submitted that offences are triable by the Court of a Magistrate and it will take a long time in conclusion of the trial.

Learned counsel, appearing for petitioner Kuldeep Sharma, submits that in pursuance to the affidavit of Sahil Sharma son of Kuldeep Sharma, the petitioners are ready to deposit a sum of ₹10 Lakh with the

complainant-HAFED.

Learned State counsel, on instructions from ASI Tejpal Singh, submits that as per the FIR, there are serious allegations against the petitioners that they have caused a loss of ₹3.95 Crore to the complainant-HAFED.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the facts that the petitioners are no more required for any further custodial investigation as the challan stands presented and charges have been framed and the case is now fixed for prosecution evidence; both the petitioners are ready to deposit a sum of ₹10 Lakh with the complainant-HAFED; there is an arbitration clause in the agreement coupled with security provided by the petitioners and also in view of the fact that offences are triable by the Court of a Magistrate and it will take a long time in conclusion of the trial, the instant petitions are allowed. Petitioners Kuldeep Sharma and Satbir Sharma are ordered to be released on regular bail on their furnishing bail and two surety bonds to the satisfaction of the trial Court/Illaq Magistrate concerned.

However, this will be subject to deposit of a total amount of ₹10 Lakh by the petitioners with the complainant-HAFED, which will be subject to final outcome of the case.

A photocopy of this order be placed on the file of other connected case.

December 06, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*