

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

**CRM-M No.4978 of 2018
Decided on: 26.02.2018**

Subhash Chander

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Vaibhav Narang, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

Mr. Rajnish K. Jindal, Advocate
for the complainants.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.175 dated 22.11.2017 registered under Section 420 of the Indian Penal Code (in short 'IPC') at Police Station Kulgari, District Ferozepur.

Brief facts of the case are that the aforesaid FIR was got registered against the petitioner with the allegation that the accused has purchased paddy crop from the firm of the complainants/victims in the year 2014 and has paid certain amount in the account of the complainants/victims and told them that he will send the rice to one M/s Vij Agro Exports Private Limited, Mallawala Road, Ferozepur (hereinafter to be referred as 'the firm') and the complainants will receive the payment from the said firm according to a slip issued by the

petitioner. On enquiry from the firm, the complainants came to know that the firm has made the entire payment to the petitioner – Subash Chander and the petitioner has committed the offence of breach of trust and has failed to pay the value of the paddy crop sold by the complainants through the petitioner as he has misappropriated the amount received from the firm.

The complainants/victims are 11 commission agents who have sold the paddy crop to the petitioner. It is further stated in the FIR that on investigation conducted by the police, after joining both the parties, the complainants who are running the business of commission agent at grain market, have sold the crop to Subash Chander who had promised to make the payment, however, later on, he stated that he has sold the paddy crop to the aforesaid firm and the complainants may take the payment from the firm. On enquiry from the said firm, the complainants came to know that the petitioner has received the entire payment and when the complainants contacted the petitioner, he issued three cheques i.e. cheque No.638679 dated 11.04.2017 for an amount of Rs.46,25,453/- in favour of Kulwant Singh of M/s Farmers Help Society, cheque No.638673 dated 11.04.2017 for an amount of Rs.26,18,000/- in favour of Malkit Singh of M/s Avtar Commission Agents and cheque No.638675 dated 11.04.2017 for an amount of Rs.7,76,081/- in favour of M/s P.S. Commission Agents, but these were dishonoured by the bank and, therefore, the petitioner has committed the offence of cheating with the complainants.

Counsel for the petitioner has submitted that, in fact, the forgery or cheating has been committed by the firm and not by the

petitioner and even the complainants have made application to the Investigating Officer that the amount be got recovered from the firm. Counsel for the petitioner has relied upon two complaints given by the complainants dated 27.06.2017 (Annexure P6) and 21.07.2017 (Annexure P7) given to Senior Superintendent of Police, Ferozepur. It is further stated that later on vide letter dated 03.11.2017, the Deputy Superintendent of Police (Rural) Ferozepur informed the Senior Superintendent of Police, Ferozepur that the complainants have stated that they do not want to pursue the aforesaid complaints (Annexures P6 and P7) and, therefore, no action is required. It is, thus, submitted that the petitioner has not committed any offence and there is no direct allegation of cheating against him.

In reply, counsel for the State, on instructions from the Investigating Officer, assisted by counsel for the complainants has submitted that despite adopting delaying tactics, the petitioner has failed to pay the price of paddy crop sold by the complainants to the petitioner and the petitioner is cleverly changing his stand. It is further submitted that there is no dispute that the crop was purchased by the petitioner and later on, he has sold the same to the firm and the petitioner informed the complainants that the payment will be made by the said firm. Believing the petitioner to be correct, the complainants gave the applications/complaints to the police that the payment be got recovered from the firm, however, later on, it came to their notice that, in fact, the said firm has made the entire payment to the petitioner and the petitioner has cheated the complainants by not paying them the price of their paddy crop, so purchased by him and has mislead them by

putting the liability on the firm with whom the complainants had no direct dealing. It is also stated that the petitioner has admitted his liability to pay the amount and that is why three cheques i.e. cheque No.638679 dated 11.04.2017 for an amount of Rs.46,25,453/-, cheque No.638673 dated 11.04.2017 for an amount of Rs.26,18,000/- and cheque No.638675 dated 11.04.2017 for an amount of Rs.7,76,081/- were issued by the petitioner in favour of the complainants from his NPA account, however, the same were dishonoured by the bank which further show that the petitioner has no intention to pay the price of paddy crop purchased by him.

After hearing counsel for the parties, I find no merit in the present petition. The petitioner has admitted that the paddy crop was purchased from the complainants (11 in numbers) and had made some payment initially, however, later on the petitioner sold the paddy crop to the firm and after receiving the entire value of the crop from the firm has cheated the complainants by not making the payment and has mislead them to file complaints with the police against the said firm whereas he had already received the entire amount from the firm. The very fact that the petitioner has received the entire amount and has not paid the amount to the complainants show that the petitioner since the time of purchasing of the crop had dishonest intention in his mind. Moreover, it is own case of the petitioner that he sold the crop to the firm which show that the complainants had no direct dealing with the firm. The complainants have been cheated of Rs.89,19,534/-.

In view of the above, no ground for grant of discretionary relief of anticipatory bail to the petitioner is made out.

Dismissed.

26.02.2018
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No