

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-983 of 2017
Date of decision : September 14, 2018

Vipan Kumar

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Rajbir Attri, Advocate, for the petitioner

Mr. HS Sullar, DAG, Punjab for the State

Fateh Deep Singh, J. (Oral)

The precise allegations against petitioner Vipan Kumar in this second anticipatory bail under section 438 of Code of Criminal Procedure, the earlier having been dismissed as withdrawn on 13.12.2016, brought to the notice of the Court by Mr. Sullar assisted by ASI Harpal Singh, Police Station Civil Lines, Batala are to the effect that firm M/s Noor Agro Industries had taken premises of a Rice Miller on lease during the period 2015-16. It is alleged that the firm had embezzled paddy to the tune of 13000 bags valuing at Rs 80 lacs belonging to PUNGRAIN leading to the registration of the present case against sole proprietor of the firm M/s Noor Agro Industries.

Mr. Rajbir Attri, counsel for the petitioner has vehemently

argued that the petitioner is only son of the principal accused Jeewan Kumar. The latter was running the firm and the petitioner has no role to play in the functioning of the firm and was living separately at Zirakpur for the last ten years and that there are no allegations against him for having ever entrusted with the paddy leading to the misappropriation of the same.

Mr. Sullar on instructions from ASI Harpal Singh fairly concedes at the bar as to the legal status of the petitioner in the firm being neither partner nor assigned any such functioning in the running of the firm but has opposed the grant of bail on the ground of heinousness of the offence and seriousness of the allegations that he has relations with the principal accused.

Appreciating the submissions, as per the own stand of the State, the petitioner has no role to play in the running of the firm and neither he was entrusted with the commodity in question much less to allege that he was instrumental in its embezzlement. Since nothing is to be recovered from the petitioner his joining the investigation will suffice the purpose. Besides to the very specific query of the Court, the learned State counsel could not produce any document to show any relationship/connection of the petitioner with the firm in question. It would be traversity of justice to send the petitioner behind the bars.

In view of the aforesaid, the present petition is allowed. In the event of arrest, the petitioner shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under

section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition is disposed of accordingly.

The observations made herein above shall not be binding on the trial court at the time of trial as these are purely for the disposal of the present bail application.

September 14, 2018

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No