

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-984-2018 (O&M)
Date of decision: 23.01.2018

Sunil Kumr Joshi

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Bhupinder Ghai, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Rishab Lohan, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.427 dated 13.12.2017 under Sections 34, 406, 420, 506 of the Indian Penal Code (for short 'IPC'), registered at Police Station Gohana Sadar, District Sonipat.

Learned senior counsel for the petitioner submits that as per the allegations in the FIR, the complainant has stated that he is working as a commission agent in New Grain Mandi, Jind and he was requested by co-accused of the petitioner namely Anil Mahajan to have a meeting for purchasing of paddy crop from the Grain Market, Jind. The complainant has a meeting with six persons including the petitioner for purchasing of crop and

accordingly, as per the terms and conditions made by the Grain Market Association, the crop was sold, however, the accused persons failed to pay the price of the paddy crop, which is approximately Rs.7 crores. It is further stated in the FIR that when the complainant along with other persons of the grain market went to meet the accused persons in their office, 12-13 post-dated cheques were given, out of which one cheque of Rs.2 crores in the name of firm of the complainant was given without any signatures. Again when the complainant and other persons visited the office of accused persons, they were misbehaved and threatened and in this regard, an FIR was registered that the petitioner and accused persons have committed the offence punishable under Section 420 IPC.

Learned senior counsel for the petitioner further submits that as per the allegations levelled in the FIR, out of 12-13 post-dated cheques, only 04 cheques relate to the firm M/s Chintpurni Foods Pvt. Ltd. and some of the farmers/commission agents have already filed complaints under Section 138 of the Negotiable Instruments Act (for short 'N.I. Act') and therefore, the FIR is not maintainable. Learned senior counsel for the petitioner has further argued that in the FIR, filing of complaint under Section 138 of N.I. Act is also not disclosed and some payment has been made and one of the complaint has already been withdrawn. It is also submitted that the petitioner neither director of the firm M/s Chintpurni Foods Pvt. Ltd. nor is signatory of the cheques and the petitioner is being roped in the FIR, because he is father of one of the co-accused.

In reply, learned State counsel, on instructions from the Investigating Officer, has opposed the prayer for bail on the ground that during

the investigation, it has been found that 58 persons have been duped by the accused persons and 08 persons, apart from the complainant, have also recorded their statements under Section 161 Cr.P.C. and thus, the petitioner and other accused persons have committed fraud with number of persons. It is further submitted that co-accused Anil Mahajan and Oshank Mahajan have already been arrested.

Learned counsel appearing for the complainant has submitted that no complaint under Section 138 of N.I. Act is pending against the petitioner and therefore, he cannot take the plea that FIR under Section 420 IPC is not maintainable against him. It is further submitted that there are specific allegations against the petitioner that he actively participated in all the meetings and was instrumental in procurement of the paddy crop, for which no payment was made and large number of farmers and commission agents have been duped and cheated by the petitioner and other accused persons.

After hearing learned counsel for the parties, I find no merit in the present petition. As per the prosecution case, the accused persons in conspiracy with each other have cheated the complainant and other persons to a huge amount of more than Rs.6,69,61,992/-. A bare perusal of the FIR shows that accused persons purchased paddy crop from the complainant and other victims but did not pay the price to them and kept on making false promises on one pretext or the other and have duped them.

It has come in the disclosure statement of co-accused Anil Mahajan and Oshank Mahajan that petitioner Sunil Kumar Joshi was working as Manager Accounts in M/s Chintpurni Foods Pvt. Ltd. and has actively participated in the commission of offence. A perusal of the FIR further shows

that accused persons have been threatening the complainant and other persons and as per the investigating officer, the police has to recover the hard disc of the computer as well as the other account books, which are in possession of the petitioner, for verifying the facts.

Therefore, the petitioner is not entitled to the concession of anticipatory bail as it is a case where custodial interrogation of the petitioner is required.

In view of the above, present petition is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

23.01.2018
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No