

**Sr. No.104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-1253-2019(O&M)
Date of decision:14.01.2019

Hardyal Singh

.....Petitioner

versus

State of Punjab and another

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Sarbjit Singh Khaira, Advocate
for the petitioner.

Rajbir Sehrawat, J(Oral)

Present petition has been filed seeking anticipatory bail in FIR No.133, dated 16.11.2018, registered under Sections 379,420 IPC at Police Station Koom Kalan, District Ludhiana.

The facts leading to the filing of the present petition are that one Kulwinder Singh, who is the Transporter by profession; lodged a Complaint with the Police alleging that he was the owner of Hind heavy Tailor Transport Company and is engaged in business of sending the Containers of different companies to Mudra Port, Gujarat. On 03.10.2018, the Complainant had taken a consignment for transport of Polyester Yarn from Sutej Textiles and Industries, loaded from Unit Chenab Textiles Mills Kathua. However, after loading the material, truck of his company went out of order. Thereafter, the Complainant contacted another transporter; the Ludhiana Gujarat Road Carrier Transport; for lending him a truck so as to send the said Container to Mudra Port, Gujarat. On his request, Vikram Kumar, who owns the above said Ludiana Gujarat Road Carrier Transport sent a truck bearing No.PB-07-BG-0145 through Radha Swami Road Line. The said container of Yarn was loaded on this truck vide bulity No.584

dated 05.10.2018. The present petitioner was driver of this truck and he had taken the consignment to Mudra Port, Gujarat. As per the Complaint, the petitioner unloaded the container at Mudra Port, Gujarat on 09.10.2018. However, subsequently, on 08.11.2018, the Complainant received e-mail from the consigner that the container which they had exported to Turkey and which was driven to Mudra Port Gujarat by the petitioner has been found to contain only the bags of soil instead of Polyester Yarn; which was of value of Rs.60 lakhs. After having received this e-mail, the Complainant contacted Vikram Kumar, the owner of Ludhiana Gujarat Road Carrier Transport, who had deputed the petitioner to take the consignment to Mudra Port Gujarat. On this, Vikram Kumar asked the petitioner regarding the matter. However, the petitioner could not give satisfactory answer. Hence, finding that it was the petitioner who has changed the material of consignment, the present FIR has been lodged.

Learned counsel for the petitioner has submitted that the Complaint is lodged after about one month. Therefore, the Complaint is doubtful on the face of it. It is further contended that the Complainant had no locus standi to lodge the FIR in this case; because neither the petitioner was his employer nor is he the owner of the consignment. It is further contended that the offence, if any, has been committed in Gujarat, therefore, the Punjab Police have no jurisdiction to register the FIR and to investigate the case.

Shri Naveen Sharma, Advocate; who is present in the Court; has put in appearance on behalf of the Complainant and submits that the delay of one month is not abnormal in the present case; because the consignment was meant for Turkey and Madagascar. From Mudra Port

Gujarat to onwards destinations, the consignment takes about 30-40 days to reach its destinations. Its only after the consignment reached its destinations that the consigner was informed by the consignee regarding the material found in the consignment. It is only thereafter, that the Complaint has been lodged with the Police. Regarding locus standi of the Complainant, it is submitted that since the alleged change of the material of the consignment has taken place only after the transport company of the Complainant had stepped in, therefore, the Complainant has every locus standi to lodge the Complaint. Still further, it is submitted that the Punjab Police does have the jurisdiction because the petitioner had taken the consignment from Punjab only. Thereafter, it is not clear where the material of consignment has been changed by him. There being a continuation of the offence, the Punjab Police is fully competent to register the case and to investigate the same.

Having heard the learned counsel for the parties, this Court finds that arguments of the learned counsel for the petitioner does not have any force. It is obvious that the consignment which the petitioner had carried to Mudra Port, Gujarat, was meant for a foreign country. It is also not the case of the petitioner that when he delivered the consignment at Mudra Port, Gujarat for onward sending the same, the material was got checked by him. Therefore, if material remains unchecked, the consignment has reached its ultimate destination and then the Complaint is made by the Transporter then no exception can be taken regarding the time taken in lodging the Complaint. It is quite natural to take this time, keeping in view the expense of the distance where the consignment was to travel, and also the fact that the consignment was to reach a foreign country. This

Court also finds substance in the argument of learned counsel for the Complainant that the Complainant has the locus to file the Complaint and that the Police in Punjab has got the jurisdiction to register the case and to investigate the same. Admittedly, the consignment was taken by the Complainant from the Consigner. It is only in the mid-way that consignment was taken over by the transport company in which the petitioner was employed. Thereafter, the petitioner had taken consignment to Mudra Port Gujarat. Hence, the Complainant is clearly and rightly concerned with the consignment not reaching the final destination intact. Otherwise also, in case of an offence, any person who comes to know of the offence can lodge an FIR with the Police. He need not be an affected person. Same is the situation regarding territorial jurisdiction. The consignment which was taken over by the petitioner was handed over to him in the State of Punjab. What happen thereafter, and where, is yet to be deciphered. However, the fact remains that the consignee has reported that it was not intact. Hence, the offence, if any, initiated right from Punjab. Hence, the Punjab Police has got every jurisdiction to register the FIR and to investigate the same.

Otherwise also, the consignment contained a material which is of no use for a person in ordinary routine. The same can only be utilised by a manufacturer of textiles or an allied material. Therefore, the investigation of the case would be having many ramifications and the facets. Unless the Police is given absolute freedom to investigate the case; in the manner it so desires, it would not be possible for the Police to decipher the true dimensions of the crime.

In view of the above, this Court does not find any ground to

hamper the investigation by granting the interim protection to the petitioner.

Dismissed.

Needless to say that anything said hereinabove, would have no bearing on the merits of the case; whatsoever.

14th January, 2019

Shivani Kaushik

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*

[RAJBIR SEHRAWAT]
JUDGE