

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

CRM No.M-24766 of 2014 (O&M)

Date of Decision: May 01, 2019

Punjab Agro Food Grain Corporation Ltd.

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Tushant Deep Garg, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr.DAG, Punjab
for the respondent-State.

None for respondent No.2.

Mr.Sanjay Kaushal, Senior Advocate with
Mr.A.P.Setia, Advocate
for respondent No.3.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 439(2) read with Section 438 Cr.P.C. for cancellation of bail granted to respondents No.2 and 3 by this Court in case FIR No.186 dated 18.12.2012 under Section 406 IPC registered at Police Station City Rupnagar, vide order dated 28.10.2013.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.3 appeared and contested the petition.

None has put in appearance on behalf of respondent No.2 despite service.

I have heard learned counsel for the parties as well as learned

State counsel and have gone through the record.

From the perusal of the record, I find that Amarjit Singh and Gurinderpal Singh applied for anticipatory bail in the above-said FIR, by filing CRM No.M-447 of 2013, which was decided by this Court on 28.10.2013 and anticipatory bail was granted to them, by passing following order:-

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“4. During the course of preliminary hearing, the following order was passed by a Co-ordinate Bench of this Court (M.M.S. Bedi, J.) on January 9, 2013 :-

“Petitioner seeks the concession of pre-arrest bail in a case registered at the instance of Managing Director, Punjab Agro Food Grain Corporation Limited alleging that M/s Dashmesh Rice Mill has misappropriated paddy entrusted for custom milling for the crop year 2011-2012 worth ₹3,36,51,916/-. Counsel for the petitioner submits that the petitioner has already paid a sum of ₹75 lacs and is ready to settle the matter but the calculations have been made by the complainant at higher price on the basis of the economic price. Notice of motion for 13.3.2013. Meanwhile, an interim direction is issued that the petitioner will join investigation on 19.1.2013 and 16.2.2013. The petitioner will deposit a sum of ₹20 lacs in the shape of bank draft in the name of Punjab Agro Food Grain Corporation Limited on 19.1.2013 and another sum of ₹20 lacs on 16.2.2013. In case of petitioner doing so, he shall be released on interim bail to the satisfaction of the arresting officer. Status regarding arbitration proceedings, if any, be intimated on next date of hearing.”

5. At the very outset, on instructions from SI Prem Chand, learned State Counsel has acknowledged the factual matrix and submitted that the petitioners have already joined the investigation. They are no longer required for further interrogation, at this stage. There is no history of their previous involvement in any other criminal case. Moreover, the petitioners are stated to have already deposited an amount of ₹1,35,00,000/- to the complainant corporation. They are even ready to pay the balance amount in installments. The offence alleged against the accused is triable by the Court of Magistrate. Even, since the prosecution has not yet submitted the final police report (challan) against the accused, so, the final conclusion of trial will naturally take a long time.

6. *In the light of aforesaid reasons and taking into consideration the totality of facts and circumstances, emanating from the record, as discussed here-in-above, the instant petition for anticipatory bail is accepted. The interim bail already granted to the petitioners by this Court, by virtue of order dated January 09, 2013, is hereby made absolute, subject to the compliance of the conditions, as contemplated under Section 438(2) Cr.P.C.*

Needless to mention that, in case, the petitioners do not cooperate, join the investigation or make the payment of balance amount as per undertaking, then the complainant/prosecution would be at liberty to move a petition for cancellation of their bail, in this respect.”

In the above-said case, the accused filed application for payment of balance of basic disputed amount in installments vide CRM No.41642 of 2013, in which they have stated as under:-

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XXX

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“2 That after alleged shortfall petitioners immediately deposited the amount of Rs.75 Lakh with the Punjab Agro Food Grain Corp Ropar this fact has already come in the FIR. After that petitioner deposited Rs 20 Lakh vide Demand drafts, petitioner deposited Rs 20 Lakh more vide 2 Demand drafts bearing No 542305 and No 939071 dated 15-02-2013 of Rs 10 Lakh each of UCO Bank with the Punjab Agro Food Grain Corp Ropar. Total Rs 1 crore 15 Lakh has been deposited by the petitioners.

3 That petitioners are now workless persons, Rice Sheller is already closed. They tried to sell their 2 Acre of commercial land in Village Choti Gando, on which this Rice Sheller M/s Dashmesh Rice Mills is installed but due to recession they could not sell it in such a short span.

4 That so the petitioner are unable to pay the entire balance amount immediately, but they have intention to pay off the due amount and get rid of this liability as soon as possible. At present petitioners are ready and willing to pay Rs 20 Lakh within 10 days, remaining balance amount they shall pay in the monthly installments of Rs 10 Lakh. But petitioners wants that complainant Punjab Agro Food Grain Corp should also undertake that FIR may be got cancelled as and when the basic balance amount is completed.”

Admittedly, accused-respondents have not complied with the undertaking given by them. Learned counsel for respondent No.3 has not shown anything that accused-respondents have complied with the undertaking. Rather, his argument is that during the proceedings of this case regarding cancellation of anticipatory bail, they have already deposited huge amount. It is also admitted that heavy amount is still pending against accused-respondents.

The perusal of the record shows that after obtaining relief of anticipatory bail on the basis of undertaking that they will pay the balance amount, the accused-respondents have not complied with the undertaking. As per order dated 28.10.2013 passed by this Court, it was made clear that if accused-respondents fail to comply with the undertaking to pay remaining amount, then complainant would be at liberty to file a petition for cancellation of bail.

As the undertaking has not been complied with by the accused-respondents and amount has not been deposited, therefore, I find that the anticipatory bail granted to accused-respondents is liable to be cancelled. Therefore, finding merit in the present petition, the same is allowed. The anticipatory bail granted to the accused-respondents is hereby cancelled and they are directed to surrender immediately before the trial Court, otherwise, learned trial Court will get them arrested by issuing non-bailable warrants, as per law.

May 01, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No