

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

**CRM-M No.15201 of 2019 (O&M)
Date of Decision: 19.12.2019**

Aklesh Rai

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Govind Chauhan, Advocate for the petitioner.

Mr. Arun Beniwal, DAG, Haryana for the respondent/State.

Mr. Sartej Singh Narula, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure (*for short 'Cr.P.C.'*) for grant of bail pending trial to the petitioner in FIR No.158 dated 13.03.2018, under Sections 406, 420, 409, 467, 468, 471, 380 and 120-B of the Indian Penal Code, 1860 (*for short 'IPC'*), registered at Police Station Gharaunda, District Karnal.

The above FIR was registered on the basis of a complaint made by Mrinav Hemant Sagar, r/o 31, Raj Palace, 11 Road, Navi Mumbai against co-accused Jonty Chhag, his father-Vinay Chhag, mother-Bhawna Chhag and other unknown persons. The allegations are that complainant is the Director of Tanna Agro Impex Private Limited, Gharaunda, District Karnal and running a rice sheller, where co-accused Vinay Chhag was

working as Manager for the last more than 20 years. Vinay Chhag was fully authorized to look after the work of sale, purchase, export of rice, operate the bank account(s) of the Company, sign cheques as well as to supervise the day-to-day working of the sheller. While taking undue advantage of the situation and misusing his powers, said Vinay Chhag in conspiracy with the present petitioner as well as other co-accused committed fraud, theft, criminal breach of trust, misappropriation of funds and caused heavy losses to the Company. He manipulated the record on the basis of forged and fabricated documents and misappropriated 8031 quintals of rice, thereby causing loss to the tune of about ₹ 6 Crores. Besides above, co-accused Vinay Chhag sold the tare (*Baaradaana*), tarpaulin, wooden crates, diesel etc. Also alleged that Vinay Chhag was terminated from the services of the Company in November, 2017 on account of his dishonesty and after checking of the record pertaining to stock, it came to the notice in February, 2018 that he along with his wife-Bhawna Chhag, his son-Jonty Chhag and other co-accused including the present petitioner caused heavy losses to the Company and purchased moveable as well as immovable properties in their names while playing fraud.

Contents that petitioner is in custody since 05.02.2019 and after investigation in the matter, report under Section 173 Cr.P.C. qua him has already been submitted before the Court concerned and charges are yet to be framed in this case. Also contends that trial is likely to take sufficient long time, therefore, he be released on bail pending trial.

On the other hand, learned State Counsel, on instructions from Investigating Officer/A.S.I. Bahadur Singh, E.O.W., Kaithal, opposed the

bail application and submitted that consequent upon interrogation of co-accused Vinay Chhag, the involvement of the petitioner is clearly established as eight trucks were purchased in his name despite the fact that he was getting monthly salary of ₹ 14,000/-. Further submitted that petitioner along with other co-accused committed the criminal breach of trust, forgery in the documents as well as fraud, running in crores of rupees. Also submitted that co-accused Jonty Vinay Chhag (son of co-accused Vinay Chhag) is still absconding and in case petitioner is released on bail, he is likely to threaten the prosecution witnesses as well as to hamper the trial.

Learned Counsel for the complainant also vehemently opposed the present petition on the similar lines of arguments, raised by learned State Counsel while submitting that in case petitioner is released on bail, he will destroy the material evidence and even can dispose off the trucks, which were purchased in his name by co-accused and his further role is also to be examined after arrest of co-accused Jonty Chhag.

Heard learned Counsel for the parties and perused the paper-book.

It transpires that initially the present FIR was registered under Sections 380, 406, 420 and 34, IPC against Jonty Chhag, his father-Vinay Chhag, mother-Bhawna Chhag and other co-accused. Subsequently, on 31.12.2018, the matter was entrusted to the Economic Offence Wing, Karnal by the Superintendent of Police keeping in view the financial implications and gravity of the offence. During investigation, 24 delivery challans (receipts) for the period w.e.f. 22.04.2017 to 15.06.2017, purported to have been issued by Tanna Agro Impex Pvt. Ltd. in favour of Amit Rice

Mill, Uchani, District Karnal were verified, but no entry to that effect was found in the record of Amit Rice Mill, thus, the same were forged and fabricated by the accused persons. Consequently, on 01.02.2019, Sections 409, 467, 468, 471, 120-B, IPC were also added, whereas Section 34, IPC was deleted. Paper-book reveals that at the time of submission of the report under Section 173 Cr.P.C. against petitioner-Aklesh Rai and co-accused Vinay Chhag, Section 474, IPC was added on 29.04.2019. During investigation, co-accused Vinay Chhag was arrested on 03.02.2019 and he made a disclosure statement that a fake transport Company i.e. Shree Sai Transport Company, Gharaunda was incorporated by him in the name of petitioner, who was working as cook and several trucks were purchased from the funds of Tanna Agro Impex Pvt. Ltd., but ownership of the trucks were shown in favour of the petitioner as well as co-accused, namely, Jonty Chhag and Bhawna Chhag. The details of the trucks purchased in the name of petitioner are as under:-

<i>Sr. No.</i>	<i>Registration No.</i>	<i>Name of the Owner with address</i>
<i>1.</i>	<i>HR-73-4437</i>	<i>Aklesh, Tanna Agro Impex Private Limited, Ward No.5, Gharaunda, Karnal, Haryana-132001</i>
<i>2.</i>	<i>HR-73-5633</i>	<i>Aklesh, Tanna Agro Impex Private Limited, Ward No.5, Gharaunda, Karnal, Haryana-132001</i>
<i>3.</i>	<i>HR-45-C-7018</i>	<i>Aklesh, Ward No.5, Gharaunda, District Karnal, Haryana</i>
<i>4.</i>	<i>HR-45-B-9533</i>	<i>Aklesh, Tanna Agro Impex Private Limited, Ward No.5, Gharaunda, Karnal, Haryana-132001</i>

5. *HR-45-B-5142* **Aklesh**, Tanna Agro Impex Private Limited, Ward No.5, Gharaunda, Karnal, Haryana-132001
6. *HR-55-S-1051* **Aklesh**, Tanna Agro Impex Private Limited, Ward No.5, Gharaunda, Karnal, Haryana-132001
7. *HR-46-B-2203* **Aklesh**, Tanna Agro Impex Private Limited, Ward No.5, Gharaunda, Karnal, Haryana
8. *HR-45-B-6055* **Aklesh**, H.No.1613, Sector 13, Urban Estate, Karnal, District Karnal, Haryana.

Also necessary to mention here that petitioner-Aklesh Rai, who has been shown as owner of eight trucks, was employed by co-accused Vinay Chhag in the year 2000 with the Tanna Agro Impex Pvt. Ltd. and getting a monthly salary of ₹ 14,000/- only and there is no source of funds available with the petitioner for purchasing all these trucks. Even the address of the petitioner in the Registration Certificates of all the trucks have been shown, which in fact belongs to co-accused Vinay Chhag, thus, complicity of the petitioner is clearly established. Also necessary to mention here that petitioner came from Bihar to Karnal and joined the Company as a helper/cook in the year 2000 and at the time of registration of FIR, he was getting a monthly salary of ₹ 14,000/-, but by hatching a conspiracy with the co-accused, namely, Vinay Chhag and Jonty Chhag, petitioner purchased eight trucks, therefore, he is actively involved in the commission of crime. No doubt, after investigation in the case, challan has been presented and charges are yet to be framed, but there is strong apprehension expressed by the respondents and rightly so that in case petitioner is

released on bail, he may not only destroy the material evidence, but also hamper the trial. Since co-accused Jonty Chhag is yet to be apprehended and there are chances that presence of the petitioner be required for further investigation in case something more is surfaced during custodial interrogation of said Jonty Chhag, therefore, in the opinion of this Court, releasing of the petitioner on bail at this stage would not be justified.

As a result thereof, the present petition is dismissed.

The above observations may not be construed as an expression of opinion on merits of the case.

December 19, 2019
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>