

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

**1. Criminal Misc. No. M-5323 of 2018(O&M)
Date of decision: 31.01.2019**

Ambalal V. Patel ..Petitioner

Versus

State of Haryana and others ..Respondents

2. Criminal Misc. No. M-25436 of 2018

Mahipat Patel and another ..Petitioners

Versus

State of Haryana ..Respondent

3. Criminal Misc. No. M-25437 of 2018

Sasidharan P. Pillai ..Petitioner

Versus

State of Haryana ..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Aakash Singla, Advocate
for the petitioner.

Mr. R.S. Doon, AAG, Haryana
for the respondent -State.

Mr. Kuldeep Tiwari, Advocate
for complainant-respondent No.2.

Mr. Shiv Kumar, Advocate
for respondent No.3.

Daya Chaudhary, J.

By this judgment of mine, three cases bearing CRM-M
Nos.5323, 25436 and 25437 of 2018 shall stand disposed of as the same

have been filed under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No.0606 dated 13.11.2017 registered under Sections 420, 467, 468, 471 read with Section 120-B IPC at Police Station, Sector 5, Panchkula. However, the facts are being extracted from Criminal Misc. No. M-5323 of 2018.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case whereas he was not involved. There was some correspondence between the petitioner and respondent No.2 regarding the medicines to be supplied. A show cause notice was stated to be issued but the same was not received by the accused-firm. The present FIR is an after thought action and no offence is made out. No action was initiated against the firm by the Commissioner, Food and Drugs Control Administration. Learned counsel further submits that there was no evidence to show that the alleged documents were prepared by the petitioner or somebody else on his behalf. No recovery is to be effected from the petitioner and his custodial interrogation is not required. Learned counsel for the petitioner has also relied upon judgments rendered by Hon'ble the Apex Court in ***Uday Shankar Rao and another vs. Amarendra Kumar Dutta, 2014 (4) RCR (Criminal) 908, Ravindra Saxena vs. State of Rajasthan, 2010(1) RCR (Criminal) 540, Central Bureau of Investigation, Hyderabad vs. K. Narayana Rao, 2012(4) RCR (Criminal) 601***, judgments rendered by this Court in ***Naresh Kumar vs. State of Punjab, 2010(1) RCR (Criminal) 318, Mohd. Akram vs. State of Haryana, 2014(3) Law Herald (P&H) 2461*** and judgment rendered by the Rajasthan High Court in ***Dr. Rakesh Verma vs. State of Rajasthan, 2014 (5) RCR (Criminal) 9*** in

support of his contentions.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner was initially released on interim bail and he was directed to join investigation. Learned State counsel further submits that vide order dated 07.05.2018, the petitioner was directed to submit all the documents with the Investigating Officer within a period of 10 days, failing which, the interim order passed in his favour would be vacated but said documents were never supplied by the petitioner.

Learned counsel for complainant-respondent No.2 submits that after verification of documents by the Food and Drug Control Officer, it was found that the firm was being run by the accused without having any valid licence and by using fake documents for allotment of tender in their favour. A show cause notice was also issued but no reply was filed by the accused-firm. A wrong affidavit was also furnished by the accused firm and it was declared disqualified by the Government of Gujarat subsequently.

Heard arguments of learned counsel for the parties and have also perused the contents of the FIR and other documents available on the file.

As per allegations levelled in the FIR, the accused-firm was debarred from participating in the tender process floated by the complainant-corporation. A letter for registration of case against the accused-firm was also submitted to the Deputy Commissioner of Police, Panchkula. After issuance of direction by this Court in the writ petition, the matter was processed. During personal hearing on 17.07.2017, the accused-

firm submitted copy of document dated 14.07.2017 alleged to have been issued by the Food and Drugs Control Administration, Gujarat. However, vide letter dated 09.08.2017, Food and Drugs Control Administration, Gujarat had informed that the said letter was never issued by their office. It was observed by the complainant-corporation vide letter dated 13.09.2017 that the accused-firm was rightly debarred from participating in the tenders for a period of three years. Since the accused-firm submitted forged documents for the second time, therefore, the FIR was got registered by the complainant-corporation against the accused-firm.

It has also been mentioned in the order passed by the Lower Court while declining anticipatory bail to the petitioner that as per report submitted by the Police, the accused submitted certain documents before the complainant-corporation. On verification of said documents, it was found that the firm run by the accused was not in possession of valid licence rather they used fake documents for allotment of tender in their favour. On issuance of show cause notice, no reply was furnished by the accused-firm. Vide letter dated 21.09.2016, the Government of Gujarat disqualified the accused-firm.

It is also relevant to mention here that learned counsel for the petitioner while addressing arguments with regard to signing of documents at the time of tender for a contract with Haryana Medical Services Corporation Limited has relied upon ratio of judgment in ***Uday Shandar Rao's case (supra)*** and submits that the petitioner cannot be made accused on the presumption of vicarious liability.

However, it has been brought to the notice of this Court by

learned counsel for the complainant-corporation that even the documents, which were supplied to the complainant-corporation in pursuance of order passed by this Court in writ petition, were duly verified by the Food and Drugs Control Officer and it was found that the accused-firm was not having any valid licence and documents, which were used for allotment of tender were fake. Even reply to the show cause notice was not filed by the accused-firm. Not only forged and fabricated documents were supplied but even a wrong affidavit was also furnished. The Government of Gujarat disqualified the accused-firm with the observation that the accused was required to be arrested for the purpose of investigation and also to ascertain as to from where the forged/fake documents were procured. The petitioner was given opportunity on various occasions to join investigation but he did not cooperate in the investigation. Even the petitioner did not respond to the queries put by the Investigating Officer.

Accordingly, by considering the allegations levelled in the FIR as well as conduct of the petitioners in not cooperating the Investigating Officer in not supplying the relevant documents and not to disclose the source thereof, no ground is made out to release the petitioners on anticipatory bail. Finding no merit in the submissions made by learned counsel for the petitioners, all the cases i.e., CRM-M Nos.5323, 25436 and 25437 of 2018 being devoid of any merit are dismissed.

31.01.2019
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes