

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26937 of 2019

Date of Decision: 20.12.2019

Surinder Kumar

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Surinder Mohan Sharma, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

HARINDER SINGH SIDHU, J.

Prayer is for grant of regular bail in case FIR No.39 dated 28.02.2018 under Sections 406/420/506/120-B IPC registered at P.S Bilaspur, Tehsil & District Yamuna Nagar.

The FIR was registered on the complaint of Pushplata for taking action against the petitioner-Proprietor of M/s Shri Ram Agro Farming Company and Ashok Kumar. The complainant alleges that she owned 13 acres of land situated in village Mianpur, District Yamuna Nagar. The accused visited her in July 2017. They mentioned about installation of poly-house on the agricultural land of the complainant. The petitioner agreed to their proposal. They obtained signatures of the complainant and opened her loan account in Bank of India, Jagadhari. They transferred Rs.17 lacs to their account from the bank account of the complainant. They promised that the poly-house would be installed within three months. Till October 2017 they did not start the work of installation of poly- house. On the insistence of the complainant in October 2017, they installed iron pipes in her land. They demanded Rs.50 lacs more to complete the work. When the complainant asked them to construct the poly- house, they in turn threatened her. Alleging that she had been defrauded of an amount of Rs.17 lacs, the complaint was filed.

Learned counsel for the petitioner has argued that there is nothing to indicate that any amount has been deposited in the account of M/s Shree Ram Agro Farming Company of which the petitioner is the Proprietor. Rather the amount has been deposited in the account of M/s Agro Poly India Karnal. So there is no question of the petitioner having defrauded the complainant.

Upon notice, learned State counsel filed status report by way of affidavit dated 16.08.2019 of the Deputy Superintendent of Police, Bilaspur (Yamuna Nagar). It has been stated therein that during investigation documents pertaining to the account of Pushaplata were taken into possession on 12.03.2018. On 06.04.2018, documents relating to Agro Poly India Karnal and the account of Surinder Kumar with Bank of Baroda, Karnal were been taken into possession. On 16.04.2018, the documents in respect of M/s Shree Ram Agro Industry Company as well as account of Ashok Kumar with Bank of India were taken into possession. From the perusal of documents and statements of the witnesses, allegations levelled against the petitioner and co-accused were found to be correct. Co-accused Ashok Kumar was arrested on 26.9.2018. During investigation it has transpired that the from the loan account of the complainant Rs.2,83,200/- were transferred to the account of Ashok Kumar. The petitioner got transferred the aforesaid amount from his account. After that, an amount of Rs.43,200/- remained in his account. Out of this amount, he had kept a sum of Rs.40,000/- in his account whereas rest of the amount has been spent by him. Accused Ashok Kumar got recovered an amount of Rs.40,000/-. After completion of investigation, a final report has been submitted against the accused Ashok Kumar on 17.11.2018.

It has come on record that out of the 24 witnesses cited three have been examined. PW 1 Shishpal Manager Bank of India Branch deposed that Pushplata had applied for a loan amount of Rs. 9800000/-. The first

instalment of Rs. 1200000/- was transferred in the account of M/s Agri Poly Karnal. Thereafter Rs. 2,83,000/- was transferred through RTGS in the account of Ashok Kumar for purchase of cement, sand, gravel, iron etc. But on inspection it was found that only limited work at the level of the basement had been done and necessary bills and vouchers were not submitted. Hence the bank refused to release any further amount.

PW 2 Dhruv Kumar the Chartered Accountant of Agri Poly India Company Karnal stated that the petitioner had got sanctioned a loan in the name of Pusplata from the Bank of India Jagadhari. And on 17.8.2017 from the account of Pushplata an amount of Rs. 1200000/- was transferred through RTGS in the account of M/s Agri Poly India Company Karnal. He further deposed that the petitioner and Ashok Kumar purchased material worth Rs. 10,33,549.30 vide Bill No. 15. Pushplata informed in October 2017 that no material had been found at the site.

PW 3 Pushplata in her evidence also stated that Rs. 12,00000/- had been transferred in the account of M/s Agri Poly India Karnal. Material had been purchased by the accused from M/s Agri Poly India Karnal which never reached the site. She also deposed that Rs. 5,00000/- in cash had been taken by the petitioner as margin money. The petitioner got Rs. 300000/- transferred the account of Ashok accused who was the contractor.

From the above it appears that Rs. 12,00000/- was transferred to the account of M/s Agri Poly India Karnal. Rs.2,83,200/- were transferred to the account of Ashok Kumar. However at the site only little work at the basement level has been done. The complainant certainly has been defrauded. But the exact culpability of the petitioner vis a vis M/s Agri Poly India Karnal would only be clear only on the conclusion of the trial.

The petitioner is in custody since 27.05.2019.

Keeping in view the facts and circumstances of the present case and taking into account the fact that the trial of the case may take long time and no useful purpose will be served by keeping the petitioner in custody till the final disposal of the case, without discussing the facts in minute detail and without expressing any opinion on the merits of the case, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate.

December 20, 2019

(HARINDER SINGH SIDHU)
JUDGE

Manoj

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No