

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-75196 of 2018

Date of decision:10.01.2019

Sahib Dyal Saini

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Vikas Bahl, Senior Advocate with Mr. Narinder Kumar Vadehra, Advocate for the petitioner.

Mr. Dhruv Dayal, Senior Advocate General, Punjab for the respondent-State.

.....

Inderjit Singh, J.

The petitioner has filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.37 dated 18.07.2015 registered for the offences under Sections 406, 418 and 120-B IPC at Police Station Taragarh, District Pathankot.

Notice of motion was issued in this case.

Mr. Dhruv Dayal, learned Senior Advocate General, Punjab has appeared on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that the FIR in the present case has been registered on the application/complaint of PUNSUP in which it has been

stated that for the year 2013-14 paddy weighing 46,401.60 quintals was stored at M/s Saini Rice Mill, Taragarh for the purpose of milling for the paddy season of the year 2013-14, as per 67%, rice of which was to become 31,089.07 quintals. Till date, M/s Saini Rice Mill, Taragarh has already delivered rice weighing 26,395.45 quintals and deficient rice weighing 4,693.62 quintals has not been delivered to the FCI. Checking was conducted and 13,000 bags of paddy were found less in the Mill. As per the prosecution version, the price of which comes to ₹1,37,22,220/-.

Learned senior counsel for the petitioner has given his own calculations and further has relied upon some documents placed on record. Learned senior counsel relied upon Annexure-P.2 i.e. revised claim petition filed before the Arbitrator and has stated that some of the paddy, which was found, has been sold by the PUNSUP.

I have gone through Annexure-P.2. In this revised claim petition, it has been stated that the claim of the petitioner may kindly be allowed and a sum of ₹1,26,66,322/- be awarded, but no explanation regarding this fact has been given by the learned senior counsel for the petitioner. It has also been submitted by the learned senior counsel for the petitioner that before the Arbitrator a statement has been made that the stocks are stated to be remained in joint custody of the PUNSUP and the Miller, but except this statement nothing has been shown as to who has taken the deficient paddy bags. Otherwise also, this Court at the time of deciding the petition for bail is not to appreciate the evidence produced before the Arbitrator. Furthermore, this is only a copy of cross-examination of CW-1 examined before the Arbitrator, which has been produced on

record. The fact regarding petitioner being partner of the firm etc. has not been contested at this stage. Furthermore, the learned senior counsel for the petitioner has submitted that the time for presentation of challan is three years in the case where the offences are punishable upto three years sentence, therefore, he argued that the FIR is of 2015 and now the Court cannot take cognizance. Regarding this argument, I find that as per Section 473 Cr.P.C., the prosecution can also show the reasons for the delay and the trial Court, at the time of taking cognizance, will look into the matter and can extend the period of limitation in certain cases.

Keeping in view the above facts and circumstances; nature and gravity of the allegations against the petitioner and the fact that the petitioner is required for custodial interrogation, I do not find it a fit case where the petitioner is entitled for the grant of anticipatory bail.

Therefore, finding no merit in this petition, the same is dismissed.

January 10, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No