In The High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-2105-2020 (O&M)
Date of Decision:- 23.1.2020

Sushil Sachdeva @ Sunil Sachdeva … Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. P.K.S.Phoolka, Advocate, for the petitioner.

Ms. Rashmi Attri, AAG, Punjab,
assisted by SI Gurjant Singh.

Mr. Surya Kumar, Advocate, for the complainant.

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GURVINDER SINGH GILL, J.

1. The petitioner has approached this Court seeking grant of anticipatory bail in a case registered vide FIR No.254, dated 19.12.2019, registered at Police Station Sangat, District Bathinda, under Section 406 IPC.

2. The FIR was lodged at the instance of Daljit Singh wherein it has been alleged that he had earlier been running a factory namely Punjab

Fort Phyto Chemicals Limited, G.T. Road, Massana Sangat Kalan, and had taken loan for running the factory including loan from Punjab Financial Corporation but somehow the product manufactured was not of good quality and the factory ran into losses. Ultimately being unable to continue running the factory he gave possession of the same to Punjab Financial Corporation (PFC) which deputed a security guard at the said factory. It is alleged that the complainant usually remained in USA or in Chandigarh. However, pursuant to receipt of several notices he had visited PFC for "one time settlement". When he once visited the factory premises, he saw that the entire machinery and the sheds had been dismantled and the factory had turned into shambles. When the complainant made inquiries from the security guard namely Vilas Ram present there he stated that the security guard posted earlier would be knowing more about the same. The complainant thereafter made inquiries from a nearby *dhaba* and from some other persons and also met Manna Singh (*Thekedar*) who informed that an auction had been conducted of the material lying in the factory. The complainant came to know that the successful bidder/contractor, in connivance with employees of PFC, had misappropriated various articles from the factory premises which was in possession of PFC department and had thus caused loss to the tune of ₹1 crore. It is further stated therein that although PFC had come to know about the said misappropriation and a team had also visited the factory to conduct an inquiry but no action has been taken thereupon.

3. It is further the case of prosecution that during the course of investigation it had surfaced that complainant Daljit Singh had raised a loan of about ₹60 lakhs from various financial institutions and also from Punjab Financial Corporation but on account of the non-payment of the loan, possession of the premises had been taken by PFC in the year 1998. Subsequently, in order to realize the dues of loan, the machinery lying therein was put to auction on 6.3.2018 and petitioner-Sushil Sachdeva @ Sunil Sachdeva was the successful bidder having made an offer of ₹18 lakhs for purchase of the machinery. On 18.4.2018 a memo of sale of movable assets was entered into. It further surfaced that in fact initially the covered area of the factory premises was 15968 Sq. feet which had now been reduced to 6268 Sq. feet and that in this manner an area of about 9000 Sq. ft. had been dismantled and the dismantled material had been misappropriated.

4. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that the petitioner was the successful bidder and pursuant thereto he was entitled to remove the machinery etc. lying there. It has further been submitted that in fact the entire factory premises had been videographed at the time of the conduct of auction and subsequently when the petitioner went to the premises to remove the auctioned articles he realised that several articles were missing and regarding which he submitted an application to PFC. Learned counsel in this context has drawn the

attention of this Court to letter dated 27.4.2018 issued by M/s GDF (India) (Annexure P-4) of which the accused is the partner.

5. It has further been submitted that there is no reliable evidence to show that the petitioner had dismantled any part of the factory premises. The learned counsel in this context has also drawn the attention of this Court to certain office notings (Annexure P-5) which the petitioner had obtained by way of filing application under RTI Act 2005. The relevant extract to which the petitioner has drawn attention reads as follows:

> "The sheds installed outside the main building are the supporting structure of machinery installed there and are of temporary nature. These sheds are made of tin sheets and erected on iron pillar and one shed is without tin sheets. If approved, we may allow the same to be taken by the purchaser to avoid litigation with him as he is alleging that at the time of sale of machinery these supporting structures were considered part of machinery and sold to him in auction. The purchaser also claims that he enhanced the bid amount due to his request to allow him to take the supporting structures with machinery at the time of auction."

6. Learned counsel for the petitioner has submitted that the aforesaid noting itself clearly shows that the PFC had recommended the removal of the tin-sheets and that in these circumstances the petitioner cannot be said to have committed any offence.

7. On the other hand, learned State counsel has submitted that only certain articles in the nature of movables and machinery lying in the premises had been put to auction and the petitioner being the successful bidder was required to remove the said machinery only and had no right to dismantle the structure existing on the premises

and to remove the iron-sheets and girders used for construction of the said structures/shed as the same was never part of the advertisement put up for auction of the machinery-material lying in the factory premises.

8. I have considered rival submissions addressed before this Court. A perusal of agreement dated 18.4.2018 i.e. memorandum of sale of movable property (Annexure P-2) and the list annexed thereto shows that it is nowhere mentioned that the part of structure had also been auctioned or that the tin-sheets of the building erected therein had also been put to sale. Although as per the information received by the petitioner under RTI Act, as reproduced above, it does appear that some officials had prepared a noting for permitting the petitioner to remove the tin-sheets but the learned State counsel has informed that the said noting was never approved by the concerned authorities and that in fact such type of noting shows that some of the officials of the PFC were conniving with the petitioner and were trying to help him.

9. During the course of arguments, learned State counsel further submitted that whenever any property seized by PFC is taken over by PFC on account of any default on part of the loanee, regular inspection-assessment of the property is got done to ensure that there is no pilferage of any articles lying in the said property. It has been submitted that while such assessments carried out between the year 1998-2016 show that the covered area of the property in question is shown to be about 15000 Sq. feet approximately but in the inspections conducted on 3.12.2018 and thereafter the covered area is

shown to be about 6000 Sq. feet only. The learned State counsel has drawn the attention of this Court to a document which is a part of the police file wherein the details of such inspections has been referred to as follows:

Re: M/s Punjab Phyto & Chemicals, Bathinda.

S. No.	Name of the valuers	Date of Assessment	Covered area in Sq. ft.
1	Sh. C.L.Sharma	4.6.1998	15996
2	Sh. A.J.Dhillon (PSIDC)	20.5.1998	14447
3	M/s Yamuna Engg.	12.8.2000	15102
4	M/s A.K.Kapoor	3.9.2000	15960
5	M/s Yamuna Engg.	7.11.2003	15102
6	M/s Goyal Assess.	15.6.2016	15968
7	M/s Punjab Engg.	3.12.2018	6268
8	Sh. Tirlochan Singh	10.12.2018	6268
9	Sh. K.S.Sobti	16.1.2018	7249

10. The aforesaid assessments clearly show that it was after the auction in April, 2018 that the covered area of the factory premises came to be drasticly reduced from 15000 Sq. Feet (approximately) to 6000 Sq. Feet (approximately). It is thus apparent that an area of approximately 9000 Sq. Feet of the structure/shed has been dismantled and the dismantled articles which would include girders and tin-sheets etc. had been removed although the said structure had not been put to sale by way of auction. As such, it is *prima facie* evident that valuable properties have been removed from the premises in question without any authorization. Nothing could be shown to this Court by learned counsel for the petitioner that petitioner was authorized to dismantle the shed and to remove the tin-

sheets, girders and other articles retrieved on account of such dismantling.

11. In view of the aforesaid discussion this Court does not find any special case for grant of anticipatory bail. The petition is sans any merit and the same is hereby dismissed.

January 23, 2020 **(GURVINDER SINGH GILL)**
mohan **JUDGE**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No