

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-15011 of 2020
Date of decision:01.07.2020

Naresh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sanchit Punia, Advocate
for the petitioner.

SUVIR SEHGAL J.

Case has been taken up for hearing through video conferencing due to Covid-19 pandemic.

This is a second petition under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No.101 dated 11.03.2020 registered under Sections 406 and 506 of Indian Penal Code, 1860 at Police Station Azad Nagar, District Hisar. The first petition for anticipatory bail was withdrawn by the counsel for the petitioner on 04.06.2020 (Annexure P-5). The present petition has been instituted six days later on 10.06.2020.

FIR was lodged on the basis of a joint complaint given by some farmers to the Superintendent of Police, Hisar stating that Anil, son of Satbir and Naresh (present petitioner), son of Dalip, are working as Commission Agents. They had approached the complainants and lured them into selling their crops to them on the assurance that they will be given good returns and timely payment. The complainants stated that for the past quite sometime, they had been selling their crops to the accused and there were

regular transactions between them. However, now a huge amount of payment is outstanding from the accused and they are refusing to make the payment despite repeated requests. Rather the accused are threatening the complainants that in case, they demand the money, they will be eliminated.

Counsel for the petitioner has argued that the complainants had sold their crop to a firm by the name of M/s Sai Beej Bhandar and the petitioner was neither the owner nor proprietor of the said firm. The petitioner is claimed to be employed as a salesman and getting a salary of Rs.15,000/- per month from the firm. According to the counsel, the firm is owned by co-accused Anil who allegedly played fraud with the complainants. He submits that the second petition seeking anticipatory bail is maintainable as the first was dismissed “at this stage” as the petitioner did not have the documents to show that the firm in question was owned by co-accused, Anil.

The submissions of the counsel have been considered. The counsel for the petitioner could not point out any material from the record to show that he was an employee of the firm and was getting a monthly salary. His submission that the firm in question was a small one and the salary was being paid to the petitioner in cash does not advance his case. The counsel, however, could not dispute the fact that the name of the petitioner and co-accused Anil was printed on the business card and calendar showing them as owners of the firm.

It has come on the record that the petitioner and the co-accused have failed to make the payment of crops to 115 small and marginal farmers and an amount of more than Rs.1.96 crore is due from them. The Sessions

Court, vide its interim order dated 18.05.2020, had directed the petitioner to join the investigation. However, despite joining the investigation on 25.05.2020, the petitioner did not co-operate with the Investigating Agency and did not produce the account books of the firm. Even before this Court, counsel for the petitioner has taken a stand that he is not in a position to produce the account books.

In any case, the second petition for grant of anticipatory bail under Section 438 of the Code of Criminal Procedure within a period of one week after the dismissal of the first one, without there being any change in fact-situation or circumstances, cannot be entertained. The dismissal of the first petition on 04.06.2020 (Annexure P-5) by this Court “at this stage” does not give a cause to the petitioner to file another petition on the basis of some additional documents by claiming that the said documents were not in his possession or knowledge when the first petition was filed.

In view of the above, no case is made out for grant of anticipatory bail. The petition is sans any merit and is hereby dismissed.

It is clarified that any observation made herein above shall not be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

July 01, 2020
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes