

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

219

**CRM-M-18670-2020
Date of decision: 31.07.2020**

Kamal Nayan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Parminder Singh, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.51 dated 29.03.2018 registered under Sections 420 and 406 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Sadhaura, District Yamuna Nagar.

Briefly stated, the case of the prosecution against the petitioner is that under agreement dated 28.10.2015, 2368.58 MT of rice was given to the petitioner for the purpose of milling out of which 948.83 MT rice was returned after milling but balance of 638.11 MT of rice was neither returned nor the value thereof was paid to the complainant. During investigation, pursuant to registration of FIR, the petitioner was arrested on 17.05.2020.

The petitioner, who is in custody since the date of his

arrest, has filed the present petition for grant of regular bail.

The petition has been opposed by the learned State counsel. However, no reply has been filed by the respondent-State.

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

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The concerned government agency exercised control over milling of paddy by the petitioner, inspected the record and stock and the milling operation was carried out after issuance of release order by the agency. Whatever paddy was supplied to the rice mill of the petitioner against the release order vouchers, the same was returned after milling in the shape of rice to the Government agency. Some part of the paddy was destroyed in the flood which fact was duly acknowledged by the officials of the government agency who assured to adjust the same. The complainant has instituted the proceedings under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') by misusing security cheque given by the petitioner. Arbitration proceedings are also pending as per the arbitration clause in the agreement. The FIR was lodged belatedly after two years of the incident. Alleged offences are not made out against the petitioner. The petitioner has been granted bail by this Court in another case of similar nature vide order dated 16.07.2020 passed in CRM-M-17021-2020. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has submitted that the petitioner misappropriated the proceeds of the part of the paddy belonging to the government agency by siphoning of the same. In view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. The petitioner is also involved in other cases of similar nature. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, pendency of criminal proceedings under Section 138 of the NI Act and arbitration proceedings as per the arbitration clause for determination of the liability of the petitioner, grant of regular bail to the petitioner in case of similar nature by Coordinate Bench of this Court and the fact that trial is likely to take long time due to restrictions imposed to prevent spread of Covid-19 but without commenting on merits of the case, I am of the considered view that the concession of regular bail may be extended to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

31.07.2020

Vinay

**(ARUN KUMAR TYAGI)
JUDGE**

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