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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25515-2020

DECIDED ON: 30th October, 2020

SANJAY

.....PETITIONER

Versus

STATE OF HARYANA

.....RESPONDENT

AND

CRM-M-25595-2020

SANJAY

.....PETITIONER

Versus

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Anil Ghanghas, Advocate for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

AVNEESH JHINGAN, J (ORAL)

The matter is taken up for hearing through video conference due to COVID-19 situation.

These two petitions under Section 439 Cr.P.C are filed for the grant of regular bail in FIR Nos. 154 and 155, dated 26th May, 2020 under Sections 406, 506 and 420 (added later on) IPC registered at Police Station Bawani Khara, District Bhiwani.

The brief facts are that FIR No. 154 was at the instance of Meena

wife of Om Parkash in which allegations are that she had purchased one tractor

bearing registration no. HR-16-U-2321 mark Arjun 555 for which she availed loan of Rs. 5,00,000/-. After paying two installments due to urgency she sold the tractor to the petitioner through one Rajinder on 7th December, 2019. A sum of Rs.1,30,000/- was paid, remaining amount was to be paid within three days and balance loan was to be cleared by purchaser. The loan was not cleared, on asking to do the needful husband of the complainant was threatened to be killed.

In FIR No.155 complainant was Vicky. It was stated that on 27th February, 2020 he purchased the tractor having Engine No. 315NH931882168F29, Chasis No. KXADS88673753 mark Sonalika DL-50. He received a phone call on 03.03.2020 from Sanjay who offered that he will get assembled a dumphur on the tractor and get it engaged on brick kiln on rent. The complainant reached Ratera with his tractor where Sanjay took the tractor for getting it engaged with the brick kiln. Thereafter, neither the tractor was returned nor money was paid. When telephone call was made asking for money, the petitioner threatened to kill the complainant.

The submission is that the petitioner was falsely implicated. The petitioner was firstly got involved in FIR No. 154, dated 26th May, 2020 registered at 15.07 hours, the police knew that the prosecution would not succeed in the said FIR, another FIR No. 155 was registered on the same day at 15.40 hours. The contention is that Om Parkash husband of Meena is running a gang in connivance with the police and the petitioner is being targeted.

In CRM-M-25515 of 2020, learned counsel for the petitioner relies upon a copy of affidavit dated 17th September, 2020 to show that the tractor was sold by the complainant to Sham Sunder Pandey.

In CRM-M-25595 of 2020 the reliance is on an un-signed affidavit

stamp vendor is annexed to show that Vicky had purchased stamp paper worth Rs.100/- for affidavit.

To fortify the contention of false implication certain photographs are pressed into service to submit that as per the case of the police, petitioner gave a disclosure statement on 29th May, 2019 to the effect that tractors were with Mukesh Narwal whereas the house of Mukesh Narwal was raided on 26th May, 2019.

Learned State counsel resist the grant of bail on the ground that the tractors are yet to be recovered; the co-accused has not been arrested till now; no prosecution witness is examined and if the petitioner is released on bail, he would be in a position to influence the witnesses and temper with the evidence. The contents of para 7 of the reply are reiterated to state that there are five more FIRs registered against the petitioner.

Both the afore-said petitions are being disposed of by a common order as the counsel for the petitioner has inter-related the afore-said FIRs in his contentions.

From the allegations in both the FIRs, it is forthcoming that petitioner deprived the complainants from their tractors. Rather in FIR No. 154, the complainant was not only deprived of the tractor but her liability to repay the loan remained as it is. It is a common fact in both the FIRs that on being approached for payment there was threat by the petitioner to kill them.

A reliance on the affidavit dated 17th September, 2020 is of not much help to the petitioner. The registration number mentioned in the affidavit is HR-16-V-2321 whereas the registration number mentioned in FIR is HR-16-U-2321. There is another aspect of the matter. Even, if it is assumed

that there is a typographical mistake in the registration number, it is unlikely that

from September, 2020 till date the alleged purchaser would not approach the complainant for correction of the number. The coloured photocopy of the affidavit is annexed which is an indicator that the original affidavit is still with the person concerned, meaning thereby, the registration of the tractor has not been transferred. There is no complaint or proceedings by the alleged purchaser against the complainant for not clearing the loan as per affidavit.

Surprisingly, in FIR No. 155 the similar stand is being put forth by relying upon an un-signed affidavit. According to which the complainant-Vicky had sold the tractor to Giriraj Sharma. It is the case of the petitioner that stamp paper was purchased by Vicky, still the petitioner has produced coloured photocopy of this un-signed affidavit. This is an arrow towards the *Modus Operandi* of the petitioner. Otherwise there was no occasion for the petitioner to have the original affidavit or its coloured copy. The reliance on an un-signed documents is noted to be rejected.

The photographs relied to set up a case of false implication does not enhance the case of the petitioner. From the photographs it is not even remotely establish that the house belongs to Mukesh Narwal.

There is not even a whisper of animosity of the police or the complainants for the false implication of the petitioner. Though the involvement of the petitioner in other FIRs itself would not be a ground for rejecting the bail. However, in the present case registration of FIRs in different police stations over the years, make the allegation of false implication to fall on its face.

Considering that tractors have not been recovered and co-accused is yet to be arrested, in such circumstances, the release of the petitioner would provide him leverage to influence the witnesses and to temper with the evidence.

No case is made out for grant of bail.

Dismissed.

However, it is made clear that any observations made hereinabove, are only for the purpose of deciding the bail application and would not be construed as an opinion on the merits of the case

30th October, 2020
sham

(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>