

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-34761 of 2020
Date of decision:30.10.2020

Anil

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

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

SUVIR SEHGAL J.

The hearing of this petition has been taken up through video conferencing on account of outbreak of coronavirus (Covid-19) Pandemic.

Through the instant petition filed under Section 438 of the Code of Criminal Procedure, 1973, the petitioner seeks grant of anticipatory bail in FIR No.101 dated 11.03.2020 (Annexure P-1) registered under Sections 406 and 506 of Indian Penal Code, 1860 at Police Station Azad Nagar, Hisar.

As per the version of the prosecution, a joint complaint was received from 08 farmers stating therein that Anil (present petitioner), son of Satbir, and Naresh, son of Dalip, who are working as Commission Agents had lured the complainants into selling their crops to them on the promise that they will be given good and timely returns. The complainants were selling their crops to the accused and there were regular dealings between them over a period of time. But a huge amount is outstanding now towards the complainants and the accused are refusing to honour their commitment. It has been alleged in the complaint that whenever the complainants demanded the due amount, the accused who have committed a breach of

trust, threatened the complainants with dire consequences.

Counsel for the petitioner has urged that the allegations levelled in the FIR are false, concocted and far from the truth. He submits that there is an inordinate delay in lodging of the FIR. It is his contention that there is nothing on the record to connect the petitioner with the alleged offence as the petitioner is not working as Commission Agent and there is no material with the prosecution to establish that there was any entrustment with the petitioner.

Notice of motion.

On asking of the Court, Mr. Rajiv Sidhu, Deputy Advocate General, Haryana, who is available on conference call, accepts notice on behalf of the respondent-State.

Mr.Sidhu, has opposed the petition upon instructions from SI Devender and has submitted that the petitioner was one of the owners of a firm of Commission Agents by the name of M/s Sai Beej Bhandar and the prosecution has sufficient material to connect the accused with the firm. He submits that the petitioner had also purchased crops from a large number of other farmers and huge payment is due from him. He has further made a reference to the order passed by this Court on **01.07.2020 in CRM-M-15011 of 2020 titled as 'Naresh Vs. State of Haryana'**, to submit that the co-accused in his bail petition had asserted that the present petitioner is the owner of the firm. He submits that the co-accused has since been arrested after his second petition for anticipatory bail, was rejected by this Court. State counsel urges that custodial interrogation of the petitioner is necessary to determine his role.

I have considered the rival submissions of the parties.

It has come on the record that names of the petitioner and the co-accused are printed on the business visiting card and calendar of the firm and mentions both the petitioner and the co-accused, Naresh, as owners. This incriminating piece of evidence could not be explained by counsel for the petitioner. Still further, as pointed out by the counsel for the State, the accused has swindled 115 small and marginal farmers into selling their crops to them and a sum of more than Rs.1.96 crore is due from the accused. Even the allegations levelled in the present complaint submitted by 08 farmers show that an amount of Rs.34.65 lakhs is due towards the complainants.

In these circumstances, the custodial interrogation of the petitioner is imperative so as to find out the extent of involvement of the accused-petitioner in the offence.

Keeping in view the totality of the facts and circumstances of the present case, this Court is of the view that the petitioner is not entitled to the grant of anticipatory bail. The petition is without any merit and is accordingly dismissed.

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

(SUVIR SEHGAL)
JUDGE

October 30, 2020

savita

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes