

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M-40081 of 2020

Date of Decision: December 21, 2020

Ashok Kumar

...Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Sunny K. Singla, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Ishan Gupta, Advocate,
for respondent No.2.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.85 dated 18.06.2011, under Sections 406, 420 IPC, registered at Police Station, Bhawanigarh, District Sangrur, but summoned under Section 379 IPC. The petitioner is in custody since his arrest on 12.06.2019.

The allegations contained in the FIR as noticed by the learned Additional Sessions Judge, Sangrur in his order dated 16.10.2020 are as under:-

“As per the allegations, originally Raj Goyal and Ashok Kumar were the partners of M/s Akbarpur Rice Mill. Raj Goyal left the rice mill and withdrew his partnership on 30.03.2011 and Pawan Singla complainant joined as partner with Ashok Kumar in the said partnership concern of M/s Akbarpur Rice Mill. Ashok Kumar also left the partnership and wife of Pawan Kumar, namely, Smt.Samira Singla joined as a partner in the said partnership concern of M/s Akbarpur Rice Mill. All the

assets and liabilities of the said rice mill as stood on 06.04.2011 were taken over by Pawan Kumar and Smt.Samira Singla. 43703 bags of paddy for the crop year 2009-10 and 29380 bags of paddy for the crop year 2010-11 were lying in the said rice mill. On 28.04.2011, 12000 bags of paddy were sent to Markfed and when stocks in premises of M/s Akbar Rice Mill was checked and counted by Baljinder Singh, Manager Markfed, it was found that 35000 bags of paddy were short. On inquiry from Watchman Ishwar Singh by Pawan Kumar and his wife Smt.Samira Singla, surviving partner of the said rice mill, he has disclosed that few days back, Ashok Kumar outgoing partner and one Krishan Kumar, resident of Nabha were removing paddy from the premises of the sheller by trucks. On 18.06.2011 Pawan Kumar complainant visited the premises of the sheller and found two truck bearing No.PB-13V-9588 and PB-13V-9688 inside the sheller loaded with bags of paddy. The unknown persons present there fled away on seeing Pawan Kumar by leaving the said trucks. Pawan Kumar reported the matter to the police on the basis of which FIR of this case was registered against Ashok Kumar and others regarding missing of 35000 bags of paddy worth Rs.1.35 crores from the premises of aforesaid rice mill.”

Learned counsel for the petitioner contends that after completion of investigation in case FIR No.85 dated 18.06.2020, under Sections 406 and 420 IPC, Police Station, Bhawanigarh, a cancellation report was submitted. However, upon a protest petition filed by complainant, the petitioner was summoned as an accused for commission of offence punishable under Section 379 IPC, vide order dated 16.08.2014. Later on, the petitioner was declared as proclaimed offender on 09.03.2015, who was arrested on 12.06.2019. Learned counsel submits that considering the nature of the offence and the custody of the petitioner, his further detention may not be necessary as the trial is likely to consume considerable

time to conclude.

On the other hand, the prayer is opposed by the learned counsel for the complainant on the ground that the petitioner remained absent from the trial court proceedings for a long time and was arrested in the year 2019. He has pointed out that the prosecution is in the process of examining its witnesses. It is pointed out that the petitioner is involved in other similar cases and, therefore, does not deserve the concession of regular bail.

At this stage, learned counsel for the petitioner has invited the attention of the Court to the order dated 12.11.2020 (Annexure P-8), whereby in two cases, he has been released on bail by this Court.

Considering the above background, custody of the petitioner and the fact that the trial will take considerable time to conclude in the wake of outbreak of pandemic COVID-19 in the region, this Court does not find any reason to decline the prayer. The petitioner is presently confined in judicial custody since 12.06.2019 and his further detention may not be necessary for any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Sangrur.

December 21, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No