

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

**CRM-M No.41257 of 2019 (O&M)
Date of Decision:- 13.01.2020**

Sunny ...Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:- Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.15 dated 16.10.2018, registered under Section 7 of Prevention of Corruption Act, 1988 at Police Station SVB, Karnal, Haryana.

A perusal of the record would show that it is not a trap case. No recovery has been effected from the petitioner, only a demand is attributed that too on the basis of telephonic video conferencing. The issue is with regard to disbursement of compensation for damaged crop of the complainant during rains in the year 2016-17.

Learned counsel for the petitioner submits that in

CRM-M of 33428 of 2019 filed by the petitioner, following order was passed by this Court on 10.01.2020:-

“Learned Senior counsel for the petitioner contends that the present petition was filed prior to framing of charge. On 20.08.2019, the case was adjourned and thereafter the petitioner sought to argue the case at the stage of charge. Charges have been framed vide Annexures P-11 and P-12 which have been placed subsequently on record of this case.

Petitioner seeks quashing of FIR No.15 dated 16.10.2018 registered under Section 7 of the Prevention of Corruption Act, 1988 at Police Station SVB Karnal, District Karnal.

Learned Senior counsel submits that even if there was an alleged demand, there was no acceptance of the same and the same was not relatable to any official function of the petitioner. By referring to the transcript/audio CD, learned Senior counsel further submits that the same cannot be relied for want of compliance of Section 65-B(4) of the Evidence Act and even phones have not been recovered by the prosecution.

Learned Senior counsel further submits that in the year 2016-17, there was no kharaba/damage in the land of the villagers. It has been so testified by the reports obtained under the RTI Act (Annexure P-6). In the year 2017-18, there was some damage in the land of the villagers, but there was no damage in the land of Baru Ram son of Puran Singh. Puran Singh is Lambardar of the village, who has verified the

damage report for the year 2017-18 (Annexure P-9).

Notice of motion for 27.03.2020.

Till the next date of hearing, proceedings before the trial Court shall remain stayed.”

In addition to the aforesaid submission, learned counsel submits that demand on the basis of voice sample would be debatable in view of non compliance of Section 65 (4-B) of the Evidence Act as certificate has not been issued by the expert. From the FSL report, no conclusive opinion can be inferred in view of non-recording of necessary parties.

Learned counsel further submits that even if there was alleged demand on behalf of the petitioner (facts denied altogether), but the same was not relatable to any official function of the petitioner, nor there was any acceptance of the same. In the year 2016-2017, there was no kharaba/damage in the land of the villagers. In the year 2017-2018, there was some damage in the land of villagers but there was no damage in the land of Baru Ram. Grand father of the complainant namely Puran Singh was the Lambardar of the village who had verified the damage report of the year 2017-2018.

Learned counsel also submits that the petitioner has been arrested without following the guidelines framed by the Hon'ble Apex Court in **Arnesh Kumar vs. State of Bihar and**

others, 2013 (4) RCR (CrI.) 527.

Learned State counsel on instructions from SI Baljeet Singh states that challan has been presented and charges have been framed and the case is fixed for prosecution evidence on 24.01.2020.

The petitioner is in custody since 04.06.2019 and has undergone incarceration about 7 months and 9 days as on 13.01.2020. The trial of the case may take some time in its culmination.

Looking to the controversy at this stage and without meaning anything on the merits of the case, it would be just and appropriate to release the petitioner on regular bail.

In view of above, the present petition is allowed and the petitioner is ordered to be enlarged on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate

Nothing expressed hereinabove shall be construed to be an opinion on merits of the case.

13.01.2020

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**(Raj Mohan Singh)
Judge**

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No