

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-20972-2021 (O&M)

Date of Decision:- 2.8.2021

Heera Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Tejinderbir Singh, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Vijay Kumar.

Mr. Tanvir Singh Attariwala, Advocate,
for the complainant.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.54, dated 22.4.2021, Police Station Bhargo Camp, Police Commissionerate, Jalandhar, under Sections 406, 120-B IPC.
2. At the time of issuance of notice of motion on 26.5.2021 the following order was passed:

“It is submitted by counsel for the petitioner that case against the petitioner is totally concocted. In fact, the petitioner had duly authorized the cold storage owner to release the requisite potato bags to the complainant. However, as per the assertions made by the cold storage owner, the slip issued by the petitioner for delivery of the potato bags to the complainant got lost from him. Therefore, by reaching physically to the cold storage, potato bags were got delivered to the complainant. Hence, the petitioner is not liable for any criminal action.

Notice of motion for 02.08.2021.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

3. Learned counsel for the petitioner has submitted that it is a case where the complainant had lifted a consignment of 500 bags of potatoes on 24.7.2020 and that another consignment of 300 bags was lifted by the complainant on 21.9.2020. Learned counsel for the petitioner submits that although the receipts issued by the petitioner to the complainant were stated to have been lost by the complainant/his representative at the time of collecting the consignments, the consignments were however, released to the complainant as he had got a phone call made to his brother Jagjit Singh Saroha, the then ACP, Jalandhar.

4. Learned counsel for the petitioner has further submitted that in any case the occurrence in question is on account of some business transaction of alleged non-supply of goods despite payment having been made and that the occurrence is being given a criminal colour because of the influence of the complainant's brother. It is further contended that the falsity of the FIR would be evident from the fact that the FIR came to be lodged after a colossal delay of 9 months of the occurrence.
5. Opposing the petition, learned State counsel, assisted by learned counsel for the complainant has submitted that since the petitioner is not disputing having received an amount of Rs.9.77 lakhs from the complainant, it clearly goes to show that the same had been received by him with an intention to cheat the complainant and that by not having delivered the goods i.e. the potatoes he had clearly cheated the complainant. The complainant has pointed out that there is no inordinate delay in lodging the FIR inasmuch as the complaint was submitted to the police after about 3 months of the occurrence and the FIR came to be lodged thereafter belatedly on account of some inquiries.
6. Learned State counsel has however, informed that pursuant to interim directions, the petitioner has since joined investigation and that he is not wanted in any other case.
7. I have considered rival submissions addressed before this Court.
8. Having regard to the facts and circumstances of the case, it will certainly be debatable as to whether the occurrence in question would

attract a civil liability only or as to whether some criminal offence is also made out as the occurrence had basically arisen out of a business transaction pertaining to non-supply of potatoes after receipt of amount in advance. In any case since the petitioner is already stated to have joined investigation and is not stated to be involved in any other case, the petition is accepted and the interim directions issued by this Court vide order dated 26.5.2021 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

2.8.2021

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No