

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

CRM-M-24553-2019

Date of decision: 29.09.2021

Rakesh Singh

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Gautam Dutt, Advocate for the petitioner.

Mr. H.S. Sitta, A.A.G., Punjab.

Mr. Alok Mittal, Advocate and

Mr. Rana Gurtej Singh, Advocate for the complainant.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.19 dated 12.02.2019 registered under Sections 420, 406 and 120-B IPC at Police Station City Kapurthala, District Kapurthala.

Vide order dated 28.05.2019 passed by a Coordinate Bench of this Court, the petitioner was granted *ad-interim* anticipatory bail and directed to join the investigation. The relevant part of said order would read as under:-

“The FIR in question was registered on the complaint of Raman Wadhwa with the allegations that the present petitioner, who stated himself to be the Managing Director of Jiya Agro Private Ltd. after entering into an agreement with the complainant qua purchase of 1600 Ton Broken Rice at the rate of Rs.1890/- per quintal and 125 Metric Ton 1121 Basmati Rice at the rate of Rs. 7050/-, had agreed to pay the price settled, within 15 days after loading of the said consignment of rice. As per the complainant, the accused delayed the payments on one pretext or the other and ultimately when three cheques amounting to Rs. 1,80,00,000/- were issued, the same were dishonoured on presentation by the complainant in the bank. Further, it was alleged that the consignment of rice was found to be unfit for human consumption and hence, a fraud had been played upon the complainant by the accused including the petitioner.

Learned counsel for the petitioner submits that firstly the

petitioner is not the Managing Director of Jiya Agro Private Ltd., but only an employee of the said company. He further submits that the petitioner is not a signatory of the cheques in question and even the cheques, which find mention in FIR, were given as security cheques by Jiya Agro Private Ltd. as would be evident on a perusal of the rear side of the cheques wherein it is mentioned "As Security".

Learned counsel for the petitioner further submits that it is primarily a dispute between two business entities i.e. Jiya Agro Private Ltd. and Jee Balaji & Company, wherein the cases under Section 138 of Negotiable instruments Act, Civil Recovery Cases and Criminal Complaints have been instituted against each other.

Notice of motion for 09.07.2019.

Mr. Rana Gurtej Singh, Advocate for Mr. Alok Mittal, Advocate has put in an appearance on behalf of the complainant and filed vakalatnama in Court today, which is taken on record. Office to tag the same at appropriate place.

In the meantime, the petitioner is directed to join the investigation as and when required by the Investigating Agency and in the event of arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged in Section 438(2) Cr.P.C."

Today, while controverting the contentions raised by the learned counsel for the petitioner, as recorded in the order dated 28.05.2019, the learned State counsel assisted by the counsel for the complainant, submits that as per the e-mail dated 17.10.2018 sent by the petitioner, he had shown himself to be the Chairman of Jiya Agro Private Limited and had received a substantial amount from the importer, which he did not pay to the complainant. Moreover, the petitioner is a person of criminal antecedents and not only many other criminal cases are pending against him, but multiple complaints under Section 138 of the Negotiable Instruments Act, have also been filed and pending against the petitioner. While referring to Annexure C.3 to the reply filed by the complainant, it is pointed out that the petitioner is running more than 12 Companies out of which, he is Director in 9 Companies. It is yet further submitted that SLP(Crl.)35479/19 filed by co-accused, namely, Raju Jain @ Rajeev Jain, seeking pre-arrest bail, has been dismissed by the Hon'ble Apex Court on 21.10.2019.

I have heard learned counsel for the parties.

Though the Coordinate Bench, had granted the concession of *ad-interim* bail to the petitioner vide order dated 28.05.2019, yet after taking into consideration the factual position as narrated above, this Court is of the opinion that the petitioner does not deserve such concession any longer. As per the allegations contained in the FIR, the petitioner had received the money from from the importer(s), but did not pay the same to the complainant. Even the cheques for an amount of Rs.1,80,00,000/-, given in lieu of the payment, were dishonoured. The said conduct on the part of the petitioner does not entitle him to the grant of anticipatory bail.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

29.09.2021
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(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No