

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

Criminal Misc. No.M-26940 of 2022(O&M)

Date of Decision: August 26, 2022

Harpreet Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.B.S.Jatana, Advocate for the petitioner.

Mr.Aman Bahri, Addl.AG, Haryana.

Mr.Deepak Kohli, Advocate for the complainant.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 438 Cr.P.C for grant of pre-arrest bail in case FIR No.135 dated 16.04.2022 under Sections 406, 407 and 420 (120-B IPC added later on), Police Station Ellenabad, District Sirsa.

The FIR was lodged on the statement of one Vijay Pal, who stated that he is working as a Munim on the shop of M/s Laxmi Narain Gauri Shankar, Shop No.26, Additional Grain Market, Ellenabad. On 10.04.2022, he got loaded 712 bags of wheat in truck No.PB-11AH-9425 (worth Rs.8,61,120/-) from Anjani Kotjin, Ellenabad for delivery of the same to M/s Sri Nath Industries, Rajkot, Gujarat. Bills in respect thereto were handed over to the driver of the said truck. Except the said truck, all other trucks reached at their destination. Then, the mobile number of the driver was dialed, but it was found switched off.

During investigation, Heera Singh and Amar Singh, the original

drivers of the aforesaid truck were apprehended. They disclosed that Kamaljit Kaur @ Foujan and Harpreet Singh @ Happy (petitioner) had taken possession of the truck along with the wheat bags from them.

Ld. counsel for the petitioner has contended that though the petitioner is owner of the Truck in question, but due to financial problems, he could not pay the instalments to the Finance Company. Vide Arbitral Award dated 21.07.2021 (Annexure P-3) the possession of the Truck was taken by the HDB Financial Services Limited. Thereafter, the Truck is in exclusive possession of the said Company. It is also argued that in the Bills of M/s Lakshmi Narain Gouri Shanker – Grain Merchants & Commission Agents, Jisha Toadlines – Transport Contractor and Sangam Dharkanta, the number of the vehicle of the petitioner is not mentioned.

The arguments raised on behalf of the petitioner cannot be accepted.

The Arbitral Award states that the Finance Company claimed possession of the Vehicle and the Arbitrator ordered that the petitioner shall give the possession thereof to the Company. There is no mention that the possession of the vehicle was ever handed over to the Finance Company.

So far as the second contention about the mention of wrong number of the truck on the bills is concerned, the Bills (Annexure P-4 *colly*) states vehicle No.“*PB11BH-9425*”, whereas, the complainant in his complaint stated “*PB-11-AH-9425*”. The fact remains that the complainant has stated correct number of the vehicle in his first version, on the basis of which the FIR was registered.

Reply in the form of affidavit of Virender Singh, Deputy

Superintendent of Police, Ellenabad has been filed, stating that Hira Singh (driver) was apprehended on 17.04.2022, who specifically disclosed that the Truck loaded with wheat bags was handed over by him to present petitioner and Kamaljeet Kaur @ Faujan. Hira Singh also got demarcated the place, where the possession of the Truck was handed over to the petitioner.

The reply further states that during investigation, the Police had reached village Pahu Bind, Distt.Tarantaran for search of accused Komaljeet Kaur and present petitioner. Upon seeing the Police, Harpreet Singh s/o Raju Kumar raised a noise that Police has arrived, the accused ran away from there. Said Harpreet Singh, who had provided shelter to the petitioner and Komaljeet Kaur was arrested. In his disclosure statement, he stated that Komaljeet is his Bhua (aunt) in relation and that on 15.04.2022, she and Harpreet Singh – petitioner had come to his house along with empty Truck No.PB-11AH/9425. The Truck was parked in his house. His Bhua told him that they had got loaded wheat bags in the truck, which have been sold by them. She also told him that police is behind them. The truck was taken away by Komaljeet Kaur and the petitioner a few days ago. When the Police reached in the village, he called in loud voice informing them about arrival of the Police. Then Komaljeet Kaur and Harpreet Singh @ Happy – petitioner ran way.

The reply further states that co-accused Komaljeet Kaur, who has been granted interim anticipatory bail by the Court, has not been cooperating the Police. Mohit Bansal, the owner of Jisha Roadlines was also joined in the investigation. He stated that Harpreet Singh @ Happy - petitioner, who is a truck driver, used to visit him. He had acquaintance

with the petitioner and trusted him. On 10.04.2022, the petitioner came to him along with a Truck and asked him to get the booking of the Truck in Anaj Mandi. On this Mohit Bansal made the Bilty of Truck No.PB-11BH-9425 (which number was told to him by the petitioner). When the petitioner was asked for providing the papers of the Truck, he told Mohit Bansal that his driver Hira Singh had gone for photostat of the papers.

The ownership of the Truck is not disputed. The two drivers, who started the truck after loading the 712 wheat bags have stated that they had handed over the truck to the petitioner and Komaljeet Kaur. Co-accused Harpreet Singh, who gave shelter to the accused has stated that the petitioner and Komaljeet Kaur had visited his house in the said Truck. They had also disclosed to him about selling of the wheat bags. The Transporter Mohit Bansal has stated that he had acquaintance with the petitioner and the wrong number of the vehicle was told to him by the petitioner. The whereabouts of the Truck are still not known.

There is no ground to grant anticipatory bail to the petitioner.

August 26, 2022

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No