

(209) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29113-2022
Date of Decision: 11.10.2022

SHUNTY

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail in case bearing FIR No.29 dated 05.02.2021(Annexure P-1) registered under Sections 420 and 34 of the IPC at Police Station Pratap Nagar, District Yamuna Nagar (Haryana).

2. The present FIR came to be registered at the instance of one Ram Kumar against Kamal @ Gula son of Dhanvir @ Goga and Ravi son of Jai Singh. The allegations were that the complainant was the owner of a tractor whose assessed value was of Rs.1,55,000/-. In lieu of the same, a new tractor Make Sonalika 750 bearing registration No.HR71J-7524 was sold to him by the Sonalika Agency Kishanpura on finance. The amount to be paid was in eight instalments over a period of 04 years and out of the same, 02 instalments amounting to Rs.98,000/- was paid in one year. The complainant had already given Rs.98,000/- to Kamal @ Gula and Ravi which had not

been deposited by them. On 30.12.2020, he had gone to the house of his relative at village Dadupur and on return that the tractor was missing. Upon a search, it was revealed that the accused Ravi and Kamal @ Gula had taken away the tractor in his absence. On being asked to return the same, the said accused informed the complainant that the tractor shall not be returned by them and neither would they deposit Rs.98,000/- as the first instalment which had been given by him.

Subsequent thereto, the statement of Kamal @ Gula was recorded who stated that while in jail, he had met the present petitioner. After coming out from jail, he met the petitioner and demanded some money from him but he said that he has no money but he could give him some work from which he could earn good money. Pursuant thereto, the petitioner gave Kamal @ Gula the Sonalika tractor bearing No.HR71J-7524 which had been taken from Ram Kumar and as per the settlement Kamal @ Gula gave Rs.86,000/- to Ram Kumar-complainant after taking it from the petitioner and which was given by Ram Kumar to the tractor agency and the remaining instalment of the tractor was to be paid by him. However, in this regard no written agreement was executed. Shunty (petitioner) had given a commission of Rs.5000/-. On 21.10.2020, he along with Shunty (petitioner) went to the house of Ram Kumar and took away the tractor and Shunty (petitioner) had taken away the tractor with him. Thereafter, Shunty (petitioner) had given him Rs.36,000/- and the Registration Certificate of the tractor was also taken from Ram Kumar-complainant and given to Shunty (petitioner). Pursuant thereto, Shunty (petitioner) had sold the tractor but he did not know as to whom the same had been sold too.

Based on the aforementioned inquiry, the present FIR came to be registered.

During the course of investigation, Ravish Kumar @ Ravi sought the concession of anticipatory bail and was directed to join investigation. Similarly, Kamal @ Gula filed a petition bearing CRM-M-23311-2021 for the grant of anticipatory bail, which was dismissed by this Court vide order dated 08.10.2021. Pursuant thereto, Kamal @ Gula approached the Hon'ble Supreme Court, where his arrest was stayed and he was directed to cooperate with the investigation.

3. The learned counsel for the petitioner contends that though the petitioner had undertaken to get the tractor recovered vide order dated 08.08.2022, he did not get the same recovered. He however contends that since Kamal @ Gula has been granted the concession of anticipatory bail by the Hon'ble Supreme Court, he too ought to be granted the same concession. He contends that even otherwise no offence under Section 420 IPC is made out.

4. On the other hand, the learned State counsel contends that the petitioner who was the main accused had given a categorical undertaking that he shall get the recovery of the tractor effected as per the order dated 08.08.2022. He further contends that the petitioner has criminal antecedents with as many as 06 FIRs registered against him as per the State's reply dated 22.07.2022 which is already on record. Even otherwise, as per investigation it has been found that Kamal @ Gula and the petitioner had taken away the tractor from the house of the complainant and it was the petitioner who had sold the same thereafter. Therefore, his custodial interrogation is necessary to

effect the recovery of the said tractor and therefore, he did not deserve the concession of anticipatory bail. Moreso, when even Kamal @ Gula who was granted the concession of interim anticipatory bail by the Hon'ble Supreme Court was not co-operating with the investigation.

5. I have heard the learned counsel for the parties at length.

6. As per the case of the prosecution after the tractor had been taken away by the petitioner and his co-accused Kamal @ Gula, it was the petitioner who had later sold it as has been clearly stated by Kamal @ Gula who had joined investigation pursuant to his arrest being stayed. Therefore, it is apparent that the petitioner is the main accused. In view of the categorical statement of his co-accused Kamal @ Gula and the investigation conducted as per the reply of the State, there is no doubt whatsoever that the petitioner had taken away the tractor which was subsequently sold by him and therefore, the custodial interrogation of the petitioner is necessary to effect the recovery of the same and to take the investigation to the logical conclusion. Even otherwise, there are six other criminal cases against the petitioner and therefore, the antecedents of the petitioner also do not entitle him to the grant of anticipatory bail.

7. In view of the above, I find no merit in the present petition. Therefore, the same is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

11.10.2022

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No