

CRM-M-26864-2023

-1-

209

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26864-2023

Date of decision :28.08.2023

AVNEESH RAI

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr.Namit Khurana, Advocate
for the petitioner.

Mr. Rajiv Goel, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 of Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.318 dated 14.07.2022 registered under Sections 406, 411, 414, 473 IPC at Police Station Taraori, District Karnal.

2. The present FIR came to be registered on an application moved by Kavinsi wife of Shri Vikramjeet (caste Khatri Sikh) resident of DOLCE AGRO (O.P.C.) PVT. LTD. Near Nar Singh Dass Public School, Taraori who stated that she was the owner of this Company and on 04.07.2022 had got loaded Truck bearing No.HR-39D-7470 from Taraori for Kandla (Gujarat) through Transport Mahrishi Markandey Road Lines (Mobile No.9034062423) Ambala City and thereafter, the goods were to go from Kandla to Cochin in a ship. 285 quintals of goods were loaded valuing about Rs.26,00,000/-. The phone number No.8287250165 of the driver was not reachable. The name of the owner

of the vehicle was Sandeep Singh whose Mobile No.9310162436. He was also not traceable. The transporter had arranged the vehicle on the guarantee of Madan Transporter of Delhi (Delhi Punjab Rajasthan Road Lines, Mobile No.8882510872, 9911930872). An advance of Rs.36000/- had been paid to the owner of the vehicle into his bank account with the AXIS Bank. Since the mobile phones of the driver and owner were switched off, a request was made for finding out the location of the driver and owner and for recovery of the goods.

During the course of investigation, the complainant produced various documents to show that she had incorporated the complainant-company. She also got recorded a statement under Section 161 Cr.P.C. wherein she stated that she had come to know about the involvement of one Gaurav resident of Delhi, Mobile No.98994-08937.

On 25.07.2022, Gaurav Gupta was apprehended and on interrogation disclosed that on 12.07.2022, he had received a phone call from phone No.8076817754 on his mobile phone No.98994-08937. The caller informed him that he (caller) had purchased stolen rice at cheaper rates which could be sold at costly rates and if he (complainant) purchased rice from him (caller), he (complainant) could also earn a profit. In order to see the sample of rice, Gaurav Gupta went to Laxmi Nagar Market where Avneesh Rai (petitioner) had met him and the deal was finalized for the purchase of rice weighing 25 kgs per bag at the rate of Rs.55. Gaurav Gupta further disclosed that he had purchased two bags of 25 kgs each at the rate of Rs.55. One bag was handed over to Himanshu as a sample and another bag was shown to Mittal Store

Kalyanpuri in order to sell it in the market. He offered to get arrested the petitioner who was stated to be a resident of Subhash Nagar, Delhi, Himanshu, Resident of Chirag, Delhi and the owner of Mittal Store, Kalyanpuri, Delhi.

On 27.07.2022, Gaurav Gupta got recovered one bag of rice Make Double Bull Gold and the same was identified by the complainant as belonging to her.

The call detail record from 10.07.2022 to 23.07.2022 pertaining to the Mobile No.80768-17754 used by the petitioner while talking with Gaurav Gupta (accused) on his mobile number was taken into possession. During investigation, it was found that the mobile number used by the petitioner was in the name of his wife Seema Rai and 105 calls had been exchanged from 10.07.2022 to 23.07.2022 between him and Gaurav Gupta.

3. The learned counsel for the petitioner contends that he has been falsely implicated in the present case only on the basis of the disclosure statement of his co-accused Gaurav Gupta which is inadmissible in evidence. At best, the petitioner could be liable for having sold two bags to Gaurav Gupta amounting to Rs.110/-. The call details between Gaurav Gupta and the petitioner did not further the case of the prosecution or inculcate him in any manner. Therefore, as no case for custodial interrogation was made out, the petitioner was entitled to the concession of anticipatory bail.

4. A reply dated 26.08.2023 by way of an affidavit of Suresh Kumar, HPS, Deputy Superintendent of Police (Headquarter), Karnal

had been filed on behalf of the State by the learned counsel for the State, which is already on record. He contends that investigation has clearly revealed that it was the petitioner who had offered to sell rice to the accused Gaurav Gupta at a cheaper rate with the assurance that Gaurav Gupta could sell the same further at a handsome profit. As many as 105 calls had been exchanged between Gaurav Gupta on the one hand and the petitioner on the other between 10.07.2022 to 23.07.2022 which remain unexplained. The custodial interrogation of the petitioner was certainly necessary in order to trace the misappropriated rice weighing 285 quintals and the arrest of the co-accused Neeraj Kumar, driver was also to be effected. The petitioner was involved in one other case bearing FIR No./1Cr.No.11205032220762/2022 under Sections 407, 420, 411 IPC Police Station Mundra in the State of Gujarat. Keeping in view the allegations levelled against the petitioner as also the fact that his custodial interrogation was certainly necessary, he was not entitled to the concession of anticipatory bail.

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

6. In the instant case, the investigation has clearly revealed that the petitioner had sold stolen rice to Gaurav Gupta, his co-accused. Multiple calls have been exchanged between Gaurav Gupta on the one hand and Avneesh Rai (petitioner) on the other. The empty truck with plate No.HP-97-3185 was recovered on 29.07.2022 but the number plate of the same had been changed to HP-97-3185 from HR-39-D-7470 and could only be identified as the chassis and engine number were same as on the original truck bearing No. HR-39D-7470. As the recovery of 285

quintals of misappropriated rice is to be effected and the investigation is to be taken to its logical conclusion, the petitioner does not deserve the concession of anticipatory bail.

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

8. However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the Trial Court is free to adjudicate upon the matter in accordance with law.

(JASJIT SINGH BEDI)
JUDGE

28.08.2023
JITESH