

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-43470-2021 (O&M)

Date of decision: October 16, 2023

Eash Sarna and others

....Petitioners

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Ms. Khyati Oberoi, Advocate for
Mr. Pratham Sethi, Advocate for petitioners.

Mr. Karan Garg, AAG Haryana.

Mr. Anurag Arora, Advocate for complainant/respondent No.2.

ARUN MONGA, J. (ORAL)

Petition herein is for grant of anticipatory bail to the petitioners in case FIR No.0406dated September 15, 2021, registered under Sections406, 420, 506 read with Section 34of the Indian Penal Code, 1860, at City Gohana, Police Station in Sonipat.

2. Learned counsel appearing on behalf of the petitioners submits that pursuant to earlier order dated November 02, 2021 passed by this Court, petitioners have joined the investigation and have fully cooperated in the same.

3. On the other hand, learned State counsel, per instructions from ASI Pawan, and learned counsel for complainant submit that petitioners have though joined investigation, but they have shown total non-cooperation and they kept on giving evasive replies to the queries put to them. Non-cooperation of the petitioners is hindering fair and effective investigation and their custodial interrogation is required.

4. Instant petition for grant of anticipatory bail to the petitioners was filed way back on October 12, 2021. Vide order dated October 14, 2021, while issuing notice of motion, a co-ordinate Bench of this Court had stayed the arrest of the petitioners. Further, vide order dated November 02, 2021, petitioners were directed to join investigation.

Thereafter, matter has been heard from time to time by various co-ordinate Benches of

this Court and certain interim orders have been passed therein. Recently, following order dated April 01, 2022 was passed by a co-ordinate Bench of this Court:

“During the course of arguments, learned senior counsel for the complainant has argued that the original of 261 bills/invoices are not being produced by the petitioners during the investigation and only 59 bills/invoices are produced as noticed in the order dated 22.11.2021.

Let an affidavit be filed by the petitioners as well as the Investigating Officer about the authenticity of the remaining bills/invoices.

List again on 06.05.2022.

Interim order to continue.”

5. *Apropos*, placed on record is a status report by way of affidavit dated May 05, 2022, wherein with regard to aforesaid query, following has been stated in paragraph-11 thereof:

“11. That with regard to the authenticity of 261 bills, it is submitted that these bills have been produced by the complainant during the course of investigation and the same were taken into possession vide separate seizure memo and in this regard, statement of complainant was also recorded under Section 161 Cr.P.C. It is submitted that these bills have been issued by firm of the complainant. It is submitted that these 261 bills have been issued with regard to supply of paddy to the mills of accused and to rebut these bills, no document has been produced by accused while joining the investigation. A perusal of these bills, shows that total 60862.31 quintal paddy was sent by complainant from 25.09.2017 to 16.11.2018 to the mills of accused, the total cost of which was Rs.19,10,82,841/- including Rs.15,37,000/- as the costs of empty bardana/empty bags and in return and accused have only paid Rs.12,71,60,334/- approximately only and an amount of Rs.6,39,23,507/- remained due towards the accused persons out of the total amount of these 261 bills. These all 261 bills have been issued by the firm of the complainant i.e. M/s Krishan Lal Jitender Kumar and the same bear the signatures of authorized person of the said firm and the amount and quantity of paddy mentioned in these bills duly correspond with the bardana sent by accused, gate-pass and letter heads of the mills of accused person while sending the Bardana to complainant, amount paid to the transporters, statements of drivers/owners of the vehicles, which transported the Bardana and the statement of employee of accused persons namely Mohammad Danish and as such, these bills cannot be said to be fake one.”

6. On perusal of various orders and otherwise also having seen aforesaid affidavit, it transpires that petitioners have throughout made themselves available as and when required for investigation and they have been exhaustively interrogated by the investigating agency over the past 02 years. Learned counsel for complainant though, of course, opposes the petition on the ground that petitioners have not cooperated, the allegations of non-cooperation stem out from alleged recoveries to be made from the petitioners due to certain commercial transactions, which turn the relations sour between

the parties. Be that as it may, *qua* said allegations of recoveries, civil suits are stated to have already been preferred, trial of which is already going on.

7. In the overall premise, since petitioners have joined investigation, their custodial interrogation is not required. Present petition is allowed. Order dated November 02, 2021 is made absolute, subject to petitioners’ complying with provisions under Section 438(2) Cr.P.C.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 16, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No