

2024:PHHC:123033



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

280

CRM-M-38984-2024 (O&M)
Date of decision: 17.09.2024

Tarun Sharma ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Deepak Jaglan, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

Mr. Rajdeep Singh Chugh, Advocate
For the complainant.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Section 482 of BNSS, 2023, the petitioner seeks anticipatory bail in case FIR No. 0063, dated 13.05.2024, registered under Sections 408 and 120-B of IPC at Police Station Moti Nagar, District Police Commissionerate, Ludhiana.
2. As per the prosecution case, on 13.05.2024, the complainant Majorjit Singh recorded his statement before the police alleging therein that he was running a transport business in the name and style of New Kuldeep Goods Carrier. On 03.04.2024, iron rods weighing 39.285 tons were got loaded in truck bearing registration number PB-10-JJ-8825 and iron rods weighing 39.170 tons were loaded in truck bearing registration number PB-

2024:PHHC:123033



10-JE-7725 from his transport office. These iron rods were worth Rs. 50 Lakhs. Harjit Singh and Harvinder Singh respectively were the drivers of the aforesaid trucks. Iron rods were sent to Mega Engineering Infrastructure Ltd. at Kathua, State of Jammu & Kashmir. The complainant had made inquiry from the drivers about the delivery of the iron rods, who informed that delivery had been effected.

3. It was further alleged by the complainant that the aforesaid drivers reached back at Mandi, Gobindgarh on 08.04.2024 and after parking the trucks in godown of the complainant, they had left. Thereafter, the complainant received a telephonic message from Mega Engineering Infrastructure Ltd. that the iron rods, which had been sent for delivery in that company, had not been received. It was also informed that one Sourav, who was employee of the above said company had run away. The complainant came to know that his drivers, in connivance with aforesaid Sourav and other persons, had misappropriated the iron rods loaded on his trucks. After registration of the FIR, investigation proceedings have been initiated and are under way. During the course of investigation, it was revealed that the iron rods/bars loaded in the trucks of the complainant were weighed at one K.M. Traders, Digital Dharam Kanta, in the name of M/s Sharma Hardware, Kathua. Two receipts showing that iron rods having weight of 38580 kgs. and 38520 kgs. were weighed at K. M. Traders, were recovered. It was apparent that the iron rods had been purchased by M/s Sharma Hardware from the drivers of the complainant. The petitioner, who is proprietor of M/s Sharma Hardware at Kathua, was nominated as an accused in this case. Apprehending

2024:PHHC:123033



his arrest, the petitioner had moved an application before the Court of learned Additional Sessions Judge, Ludhiana but the same had been dismissed, vide order dated 05.08.2024.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. The ingredients for commission of offence under Section 408 of IPC have not been made out at all against him as he is neither the clerk nor the servant of the complainant. He was not even entrusted with any property belonging to the complainant and cannot be even made liable by invoking principles of constructive liability. It is further argued that he has been implicated in this case only on the basis of two receipts issued in the name of one M/s Sharma Hardware, whereas as many as 09 shops/concerns in the name of M/s Sharma Hardware or having similar names are existing and doing business within the District Kathua, Jammu & Kashmir. The petitioner is running a small business of hardware and paint in Kathua. The e-way bills with regard to iron rods, which were allegedly misappropriated, had never been generated in the name of the petitioner either by the consignor or by the consignee firm. Moreover, the receipts are issued by M/s. K. M. Traders with regard to vehicles bearing registration numbers PB-65-AW-3217 and PB-13-BB-2255, which were not the numbers of the vehicles as mentioned in the complaint, in which the iron rods weighing 39.285 kgs. and 39.170 kgs. had been loaded as consignment for Mega Engineering Infrastructure Ltd. It is further submitted that the petitioner had never met the complainant nor had done any business with his firm at any point of time. The FIR has been registered in undue haste. The chronology of

2024:PHHC:123033



the events as well as the facts and circumstances has been concealed in the FIR. The custodial interrogation of the petitioner is not required. No recovery is to be effected from him. He is ready to join the investigation. No useful purpose would be served by detaining him into custody. With these broad submissions, it is urged that the petition deserves to be allowed and he deserves to be granted concession of anticipatory bail.

5. The complainant has filed reply to the petition submitting therein that the iron rods worth Rs. 50 Lakhs had been loaded in the trucks belonging to him for sending the same to Mega Engineering Infrastructure Ltd. Though the drivers of the trucks had informed the complainant that they had delivered the same at the place of destination but subsequently, it was revealed that the drivers, in connivance with some employees of Mega Engineering Infrastructure Ltd., had misappropriated the iron rods and the same never reached the destination. It was also revealed that the petitioner had purchased the stolen iron rods from the co-accused as during investigation, it was proved that these iron rods were weighed at K. M. Traders, Dharam Kanta in the name of M/s Sharma Hardware, which is owned by the petitioner. By submitting that custodial interrogation of the petitioner is must, dismissal of the petition is prayed for.

6. Learned State counsel, assisted by learned counsel for the complainant, has argued that for unearthing the whole conspiracy and for eliciting the truth about the manner in which the crime was committed and also for effecting recovery of the stolen iron rods, the custodial interrogation of the petitioner is must. It is also submitted that as per investigation, the

2024:PHHC:123033



receipts were issued by K. M. Traders Digital Dharam Kanta, situated in Sidco Ghati, Barnoti, Kathua and since the shop/concern of the petitioner is also situated in Sidco Ghati and is having same name as mentioned in the receipts, therefore, it is clear that it was the petitioner, who was involved in purchasing the stolen iron rods from the drivers of the complainant. Therefore, it is urged that the petition is liable to be dismissed.

7. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

8. As per the allegations, on 03.04.2024, the complainant had loaded iron rods weighing 39.285 kgs. and 39.170 kgs. in his two trucks at his transport for the purpose of delivering the same to Mega Engineering Infrastructure Ltd. at Kathua, State of Jammu & Kashmir. However, the consignee firm had informed the complainant that the goods did not reach it and then it was revealed that some employees of consignee firm in connivance with the drivers of the complainant had criminally misappropriated the iron rods. As per the further allegations, some iron rods had been sent to the shop/concern of the petitioner and weighment receipts issued by the K. M. Traders, Kathua established this fact. As reflected from the record, the petitioner has been nominated as accused mainly on the basis of the weighment receipts issued by the K. M. Traders, Digital Dharam Kanta, situated at Sidco Ghati, Barnoti, Kathua (Annexures P-3 and P-4). On a cursory perusal of these receipts, it is revealed that the vehicle, which were weighed at the above named Dharam Kanta, were bearing registration numbers as PB-65-AW-3217 and PB-13-BB-2255. The date of weighment is

2024:PHHC:123033



mentioned as 19.04.2024 in both the receipts, whereas, as per version in the FIR, the vehicle numbers which were sent to deliver the iron rods to Mega Engineering Infrastructure Ltd. were PB-10-JJ-8825 and PB-10-JE-7725. More so, as per allegations in the FIR, the above said vehicles had reached back at the transport office of the complainant on 08.04.2024 i.e. before the weighment receipts (Annexures P-2 and P-3) were issued.

9. The reply filed by the complainant shows that since the weighment was made at a Dharam Kanta, which was existing in Sidco Ghati, Barnoti and as the shop of the petitioner that is having similar name and is situated in the same vicinity, therefore, he is sought to be prosecuted and has been named as an accused in the present case. The explanation so given by the State for prosecuting the petitioner and for arresting him is based on very vague allegations. Admittedly, the petitioner is neither an employee of the firm of the complainant nor he was entrusted with any property belonging to the complainant as it is highly debatable as to whether the ingredients for commission of offence punishable under Section 408 of IPC have been attracted in this case or not? So far as the receipts of the misappropriated stolen iron bars are concerned, since the material relied upon by the respondent-State i.e. weighment receipts themselves do not show that the vehicle which were mentioned in the FIR were the same vehicles which were weighed on 19.04.2024 at aforesaid Dharam Kanta, vide receipts (Annexures P-2 and P-3), therefore, it is also a question of debate as to whether those goods were stolen goods or not? Keeping in view the aforesaid facts and circumstances, I am of the considered opinion that the custodial interrogation

2024:PHHC:123033



of the petitioner is not required. He is otherwise ready to join the investigation.

8. Accordingly, without making any comment on the merits of the case, the present petition is allowed and the petitioner is granted concession of anticipatory bail subject to the condition that he would surrender before the Investigating Officer within a period of ten days from today and in that eventuality, the Investigating Officer/Arresting Officer shall release him on bail, on his furnishing personal/surety bonds to his satisfaction and further subject to the following conditions:-

- (i) The petitioner shall cooperate with the investigation and shall appear before the Investigating Officer as and when required.
- (ii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any Police Officer.
- (iii) He shall not commit any similar offence while on bail.

9. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

17.09.2024

Waseem Ansari

*Whether speaking/reasoned
Whether reportable*

(MANISHA BATRA)
JUDGE

*Yes/No
Yes/No*