

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

225-CRM-M-47039-2024

Date of decision: 25.09.2024

Harchand Singh Sidhu

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. KS Sidhu, Advocate for the petitioner

Mr. JS Rattu, DAG Punjab

Sandeep Moudgil, J.

The petitioner has filed the present petition under Section 483 BNSS seeking grant of regular bail in case FIR No.115 dated 04.10.2013 under Sections 406/420/120-B IPC, registered at Police Station Raikot, District Ludhiana Rural.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case as due to health issues in October, 2014, he went abroad and subsequently, he was declared absconder by the trial Court vide order dated 15.5.2015 and the said order has been quashed by this Court vide order dated 05.07.2024 passed in CRM-M-31162-2024 (Annexure P10).

It is averred that the FIR has been got lodged at the instance of PUNSUP with regard to non-delivery of rice by M/s Sidhu Rice and General Mill of which the petitioner was one of the partners. He submits that due to major defect in the machinery of the Sheller, the firm was unable to mill the paddy which was duly informed to the complainant on 9.4.2013 as to its inability to mill the paddy and as such, the petitioner requested the complainant that the

allotted paddy be shifted to some other mill but the complainant moved a police complaint and got registered the present FIR.

It is contended that the transaction between the parties was civil in nature as per the clause of Agreement inasmuch as the complainant himself also initiated the recovery proceedings and the execution is already pending in this Court and as such, the FIR has been wrongly registered pursuant to which the petitioner is in custody since 2.8.2024.

Learned State counsel opposed the prayer for grant of regular bail on the ground that the petitioner along with co-accused constituted a firm, namely, M/s Sidhu Rice and General Mills and executed an agreement for the paddy season 2012-13 as per which 179544 bags of paddy approximately (35 kg each bag) totaling to 62840.40 quintal was delivered to the petitioner's mill and thereafter the petitioner was required to deliver back rice of 42103.068 quintal and instead supplied only 1347.03 quintal of rice and misappropriated a large quantity of paddy by causing wrongful loss to PUNSUP on the pretext of fire having broke out in the firm.

He further submitted the custody certificate dated 24.09.2024 which is taken on record. According to it, the petitioner has undergone 1 month and 22 days of custody, pending trial and till today, none out of 26 PWs have been examine pursuant to filing of challan on 09.09.2024. He contended that in the event of release of the petitioner, he may tinker with the evidence or coerce the witnesses.

Heard learned counsel for the parties and gone through the record.

Taking into consideration the totality of the circumstances particularly the fact that trial in the present case is moving at a snail's pace as is

evident from the statement of State counsel that charges have not been framed till date and in that eventuality, it is abundantly clear that it will take certainly long time to conclude the trial and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgement of Apex Court in “***Dataram Singh vs. State of Uttar Pradesh and another***;; (2018) 3 SCC 22”. That apart there is essence of contract involved in the instant set of allegations particularly the fact that the petitioner’s mill had itself on 09.04.2013 informed the PUNSUP its inability to mill paddy and also requested to transfer the balance paddy.

A Division Bench of this High Court in ***Rajender Singh vs. State of Haryana***, 2022(2) R.C.R. (Criminal) 85 has held that a right under Article 21 of the Constitution of India includes right to speedy trial and expeditious disposal which is also in public interest primarily showing concern on a following view point.

(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;

(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and

(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

Keeping the petitioner inside the jail is clearly violative of speedy trial under Article 21 of the Constitution of India, but the same is likely to take long time being wherein it is at the initial stage after a lapse of considerable time.

Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

25.09.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No