

[221] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53162-2023
Date of Decision : 08.02.2024

Dinesh Kumar ...Petitioner
versus
State of HaryanaRespondent

Coram : HON’BLE MR. JUSTICE DEEPAK GUPTA
Present : Mr. Diwan S. Adlakha, Advocate for the petitioner.
Mr. Pawan Kumar Jhanda, DAG, Haryana.

DEEPAK GUPTA, J. (ORAL)

[1] Status report by way of affidavit dated 13.12.2023 of Shri Mahabir Singh, HPS, Deputy Superintendent of Police, Yamuna Nagar-1, on behalf of respondent No.1-State has already been received through Registry. Copy thereof supplied to learned counsel opposite.

[2] This is the second petition under Section 439 Cr.P.C whereby petitioner is seeking regular bail in case FIR No.180, dated 28.07.2020 under Sections 420, 407 of IPC, registered at Police Station Chhachhrauli, District Yamuna Nagar. Earlier petition was dismissed as withdrawn vide Annexure P-6, on 25.05.2023.

[3] FIR was lodged on the complaint of District Manager, Hafed Department, Yamuna Nagar, as per which, during the kharif 2019-2020, M/s Shri Ram Agro Foods, through its proprietor (petitioner) had entered into an agreement with Hafed on 31.10.2019, as per which, it was bound to supply 28468.38 quintals of rice within the specified period but the firm had

quintals was withheld. A Committee was constituted by the HAFED and on physical verification on 25.06.2020, 30217.81 quintals of paddy was found less. The firm also did not return 29449 jute bags, 662 wooden crates and 74 tarpaulins to the FCI. It is alleged that this way, miller intentionally and knowingly misappropriated an amount of Rs.8,13,95,796/-.

[4] Learned counsel contends that it is on account of the Covid period that the contract entered into between the parties, could not be complied with. Learned counsel further contends that case in question is triable by the Magistrate and that the petitioner is in custody for the last more than 01 year and 04 months. Attention is further drawn towards copy of jamabandi (Annexure P-8) to emphasize that rice sheller of the petitioner in the land measuring 03 kanal 04 marla has already been attached vide Rapat No.613 dated 26.05.2021. Besides, the department has already filed a civil suit for the recovery against the petitioner. Learned counsel submits that in these circumstances, the petitioner be allowed bail.

[5] Learned State Counsel has opposed the bail petition by pointing out towards the huge loss caused to the complainant department on account of the failure of the petitioner to make compliance of the contract.

[6] Heard.

[7] Prima facie, the dispute appears to have arisen out of an agreement executed between the parties. At the same time, it will be a moot point as to whether the failure on the part of the petitioner to return the paddy as agreed, will attract the provisions of Section 420 IPC and that of

is in custody for the last 01 year 04 months and 14 days as per the custody certificate. He is not involved in any other case except a cheque bounce matter. Land of the petitioner has already been attached for effecting the recovery. Civil suit has already been filed for effecting the recovery. It is also informed by learned State Counsel that out of 17 witnesses cited by the prosecution, only 08 have been examined so far. Thus, trial is likely to take long time to conclude. Even otherwise, the case is triable by the Magistrate.

[8] Having regard to the above facts and circumstances, but without commenting anything further on the merits of the case, this petition is allowed and petitioner is admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned, on usual terms and conditions.

(DEEPAK GUPTA)
JUDGE

08.02.2024
'Rajneesh'

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