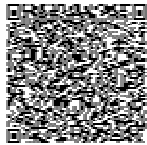


2024:PHHC:161912



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

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CRM-M-53172-2024 (O&M)
Date of decision: 04.12.2024

Kashmira Khan ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Amjad Khan, Advocate
for the petitioner.

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

None for the complainant.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No. 0063, dated 13.05.2024, registered under Sections 408 and 120-B of IPC (Sections 420, 465, 467, 471 and 201 of IPC added later on) at Police Station Moti Nagar, District Police Commissionerate, Ludhiana.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 13.05.2024, 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-10-JE-7725 from his transport

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office. These iron rods were worth Rs. 50 Lakhs. Co-accused Harjit Singh and Harvinder Singh 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 the aforesaid co-accused, in connivance with aforesaid Sourav and other persons, had misappropriated the iron rods loaded on his trucks. After registration of the FIR, investigation proceedings were initiated. Subsequently, the petitioner along with Munish Kumar, Priyanshu, Lokesh Rana, Rahul Rana, Vikas Kumar and Manpreet Singh @ Mani have been nominated as co-accused on 27.05.2024. The petitioner was arrested on 05.06.2024. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforesaid mentioned offences. He had moved an application before the learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 12.09.2024.

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4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Though the present petition is a driver by profession but he was not the driver of the aforesaid trucks, which were involved in misappropriation of goods of the complainant. The petitioner has been nominated merely on the basis of the disclosure statement suffered by co-accused Manpreet Singh, which is otherwise not admissible in evidence. The petitioner had no role in the commission of subject offences. It is a case of business dispute between the complainant and aforesaid Mega Engineering Infrastructure Ltd. The petitioner is in custody since 05.06.2024. Investigation has since been completed and *challan* has been presented in the Court. The conclusion of trial is likely to take some time. It is, therefore, urged that the petition deserves to be allowed.

5. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that there are serious and specific allegations against the petitioner. The complicity of the petitioner in the subject offences has been established during the course of investigation. Co-accused Manpreet Singh had disclosed that on 18.04.2024, he along with the petitioner had gone to Focal Point, Ping Ghati and co-accused Saurav facilitated the unloading of the goods with the help of a JCB Machine and he received an amount of Rs. 60,000/-, out of which, an amount of Rs. 20,000/- was given to the petitioner. Hence, it is urged that the petition is liable to be dismissed.

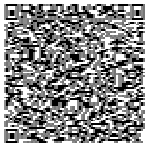
6. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

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7. As per the allegations, on 03.04.2024, the complainant had loaded iron rods weighing 39.285 kgs. and 39.170 kgs. in two trucks bearing registration numbers PB-10-JJ-8825 and PB-10-JE-7725 at his transport for the purpose of delivering the same to Mega Engineering Infrastructure Ltd. at Kathua, State of Jammu & Kashmir. However, the consignment was not delivered at the consignee firm. Later on, it was found that some employees of the consignee firm, in connivance with the co-accused/drivers of the aforesaid trucks of the complainant, had criminally misappropriated the iron rods. Admittedly, the petitioner was not the driver of either of the aforesaid trucks, which were loaded with the iron rods. Rather, as per contents of FIR, they were driven by co-accused Harjit Singh and Harvinder Singh and the petitioner is alleged to be the driver of truck bearing registration number PB-13-BB-2255. A perusal of the contents of the FIR reveals that it is the claim of the petitioner that 39.170 tons of iron rods were loaded in PB-10-JE-7725. However, as per status report filed today, it is the claim of the prosecution that 39.170 tons of iron rods were loaded in PB-13-BB-2255. These contradictory claims cannot be decided in the present petition. The petitioner is in judicial custody since 05.06.2024. Investigation has since been completed and *challan* has been presented. The trial is likely to take time. Keeping in view the facts emanating from the record, the period of incarceration of the petitioner and attendant facts and circumstances of the case, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore.

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8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

04.12.2024

Waseem Ansari

(MANISHA BATRA)

JUDGE

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