

CRM-M-1600-2021 &
CRM-M-2138-2021

-:1:-

WWW.LIVELAW.IN

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M-1600-2021

Darshna Rani

..... Petitioner

Versus

State of Punjab

..... Respondent

2. CRM-M-2138-2021

Vijay Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

Date of decision : 25.1.2021

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Anil Kumar Garg, Advocate
for the petitioners in both cases.

Mr.J.S. Ghuman, DAG, Punjab.

Mr.Gulam Nabi Malik, Advocate
for the complainant.

WWW.LIVELAW.IN

H.S. MADAAN, J.

Cases taken up through video conferencing.

Vide this order, I shall dispose of two petitions for grant of pre-arrest bail i.e. **CRM-M-1600-2021** filed by petitioner Darshna Rani and

CRM-M-2138-2021 filed by petitioner Vijay Kumar, both of them being husband and wife and accused in FIR No.208 dated 12.12.2020, under Sections 420, 120-B, 406 IPC, registered at Police Station Sadar, Ahmedgarh, District Sangrur.

Briefly stated, the facts of the case as per the prosecution story are that criminal machinery in this case was set into motion by complainant Baljeet Singh Tiwana and several other persons, residents of village Lasso, Police Station Ahmedgarh, District Sangrur, who in the written complaint submitted by them to SSP, Sangrur sought registration of the FIR against the present petitioners Vijay Kumar son of Milakh Raj, his wife Darshna Rani as well as their son Deepak Kumar, earlier residents of village Lasso and presently residing at Guru Teg Bahadur Colony, Backside Prem Lata Hospital, Malerkotla. *Inter alia* in the complaint, the complainants contended that Vijay Kumar and his whole family including his wife Darshna Rani and son had been working as commission agents at village Lasso; they purchased Kharif (rice crop) but did not make the payment to the concerned farmers according to J forms, although they had received the amount deposited by the Government with regard to the crops sold by the farmers; the accused had used the money for their own purposes; it was with great difficulty that the accused had paid an amount of Rs.28 lakhs out of total amount of Rs.70 lakhs, whereas remaining amount was misappropriated accused committing fraud of about 87 lakhs, which included payments for earlier crops as well as for Kharif crop; the accused own big properties in the form of four houses in Malerkotla, two big plants in industrial area a cold store on Ludhiana Road, two rice shellers at village

WWW.LIVELAW.IN

Lassoi and 130 bighas of agricultural land in the name of daughter of petitioner Vijay Kumar; the accused have created all those properties with the money belonging to the innocent farmers receiving the amount from the Government without paying the same to the farmers concerned; earlier also, petitioner Vijay Kumar had committed a fraud at Khanna about 30 years ago and then he left that spot; a criminal case was registered against him at that time. On receipt of such complaint, formal FIR was registered.

Apprehending their arrest in this case, petitioners/accused had approached the Court of Sessions seeking grant of pre-arrest bail but their such applications were dismissed by the Court of learned Additional Sessions Judge, Sangrur vide separate orders order dated 29.12.2020. As such, they have approached this Court asking for similar relief by way of filing separate petitions.

Notice of the petition filed by petitioner Darshna Rani had been issued to the respondent - State on 13.1.2021 and notice of the petition filed by petitioner Vijay Kumar has been issued to the State today itself. Mr.J.S. Ghuman, DAG, Punjab, accepts notice on behalf of respondent - State. Mr.Gulam Nabi Malik, Advocate has also appeared on behalf of the complainant. They opposed both the petitions.

I have heard learned counsel for the parties besides going through the record.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

WWW.LIVELAW.IN

Here there are grave and serious allegations against both the petitioners of having misappropriated the money payable to the complainants, which they had received from the Government as sale price of crops sold by the complainants through commission agency of the accused. The money runs into lakhs of rupees. There is no plausible and satisfactory explanation coming forward from the side of petitioners as to why they have not made payment to the complainants after receiving the price of crops sold by them to the Government through commission agency of the accused.

Learned counsel for the petitioners has tried to render an explanation that as per normal practice in the villages, the farmers receive money from the commission agent from time to time, which is finally adjusted against the money payable to them as price of the crops sold by the farmers through agency of the commission agent.

But I find such explanation to be highly unconvincing. Learned counsel for the petitioners has just referred to a general practice without specifying as to how much amount had been received by which of the complainant on which date, which was to be adjusted against the price of the crop payable to such complainant. No copies of account books in support of such contentions have been placed on record.

During the course of hearing, learned counsel for the petitioners was asked to get necessary instructions from his clients, whether they were ready to make the payment to the complainants even in installments but he stated that as per instructions received by him from the petitioners, the money stood already paid and the petitioners do not have any financial liability towards the complainant. The stand taken by the

petitioners show their adamant attitude. They are taking the plea of payment having already been made without there being sufficient evidence to substantiate those contentions.

The counsel for the petitioners has tried to invoke sympathy of the Court submitting that petitioner Vijay Kumar is an aged person of 63 years not keeping good health and he has suffered a paralytic attack in the month of December, 2019 affecting his memory, whereas petitioner Darshna Rani is a woman aged about 64 years, who is not much aware of the business of the commission agency. Therefore, both the petitioners be granted an opportunity to join the investigation and present their version.

However, I am not impressed by these submissions. With serious and grave allegations of fraud and misappropriation being there against the petitioners, their old age or ailments etc. cannot help them in escaping arrest and custodial interrogation, which in this case is found to be necessary for complete and effective investigation and to recover the misappropriated money belonging to the farmers. The Court cannot lose sight of the fact that hard earned money running into lakhs of rupees belonging to the complainant/farmers has been usurped by the petitioners, who are stated to have created huge properties by use of this money and other money said to have been misappropriated by the petitioner/accused Vijay Kumar of various farmers at Khanna. Leniency and misplaced sympathy cannot be shown to the petitioners by granting concession of pre-arrest bail to them by ignoring the plight of the complainant/farmers, who do hard work and put in lot of efforts in the agricultural operation hoping to get reward for such efforts in having good crops and then to earn their

WWW.LIVELAW.IN

livelihood by sale of such crops. If some middle man successfully usurps the price of the crops and is allowed to go scot-free, that shall result in perversity of the justice and would amount to great injustice to the affected complainant/farmers. Both the petitioners are stake holders in the commission agency business and are liable to pay dues of the complainant/farmers.

Learned counsel for the petitioners came up with another plea that in case any farmer has got any grouse against the petitioners with regard to payment of the price of the crops sold by him through commission agency of the petitioners, he may file a suit for recovery or take any civil action.

This plea deserves to be rejected on the face of it. The Courts are required to do substantial justice and not to let offenders go scot-free accepting such like pleas. The petitioners have committed grave offence of misappropriation of money belonging to the complainant. They cannot be allowed to succeed in their such designs by grant of discretionary equitable relief of pre-arrest bail to them.

In case of **State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268**, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioners is definitely required

CRM-M-1600-2021 &

CRM-M-2138-2021

-:7:-

WWW.LIVELAW.IN

to find the necessary details of the criminal acts committed by them and for the purpose of recovery of money. In case custodial interrogation of the petitioners is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

Therefore, no case for grant of pre arrest bail to either of the petitioners is made out.

Thus, the petitions stand dismissed.

(H.S. MADAAN)
JUDGE

25.1.2021
Brij

1. Whether reportable? No
2. Whether speaking / reasoned? Yes

WWW.LIVELAW.IN

सत्यमेव जयते