

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

101

CRM-M-31672-2017

Date of Decision: 29.09.2017.

Mukand Singh

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Sanjay Majithia, Sr. Advocate, with
Mr. Inderjeet Singh, Advocate, for the petitioner.

Ramendra Jain, J.(Oral)

Prayer in the instant petition under Section 438 of the Code of Criminal Procedure is for grant of anticipatory bail to the petitioner in the event of his arrest in case F.I.R. No.70 dated 18.07.2017, registered under Sections 406 and 420 of the Indian Penal Code, at Police Station Ajitwal.

Allegation against the petitioner is that he usurped/misappropriated 12840.10 quintal of rice worth ₹3.25 crores entrusted to him for milling by the complainant-PUNSUP.

Learned senior counsel for the petitioner contends that in view of the arbitration agreement between the petitioner and complainant, the complainant has already obtained an award against the petitioner. The property worth ₹2 crores of Sadhu Singh, partner of the petitioner, was mortgaged with the complainant and, therefore, the recovery of the awarded amount can be effected by selling the mortgaged property. Under Order XXI Rule 42 of the Code of Civil Procedure, the Civil Court is well competent to

ask the petitioner and his partner to disclose their entire assets so as to effect recovery of the awarded amount, therefore, the petitioner is not liable for any criminal action. The petitioner is ready to join the investigation.

The allegation against the petitioner is very serious about misappropriation of paddy worth ₹3.25 crores. The property of only ₹2 crores is being mortgaged by the sleeping partner of the petitioner, therefore, the entire awarded amount and interest, if any, thereon cannot be recovered from the mortgaged property. On asking of the Court, the petitioner is not ready to deposit even a single penny against the embezzled/misappropriated paddy/rice.

Therefore, considering over all facts and circumstances, but without commenting anything on the merits of the case, the petitioner does not deserve the concession of bail. Accordingly, the petition is dismissed.

(RAMENDRA JAIN)
JUDGE

29.09.2017
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No