

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9055-2025
Reserved on: 01.03.2025
Pronounced on: 11.03.2025

Kulwinder Singh @ Kinda ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Harnanak Singh, Advocate for
Mr. Avtar Singh Bhatti, Advocate,
for the petitioner.

Mr. Adesh Pal Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
01	03.01.2025	Dehlon, District Police Commissionerate Ludhiana	306, 3(5) of BNS, 2023 (317(2) of BNS added lateron)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. As per paragraph 9 of the bail petition, the petitioner was involved in one more criminal case but he was acquitted in that case by the trial Court, vide judgment dated 03.05.2024.
3. The facts of the case are being taken from translated copy of FIR annexed with the petition as Annexure P-1, which reads as follows:

“Statement of Tarsem Singh @ Ravi S/o Randhir Singh resident of Village Sarinh, PS Dehlon Ludhiana aged about 34 years mb. No. 87288-xxxxx. It is stated that I am the resident of above mentioned address, I am running a sweet shop and milk diary at Village Sarih in the name and style of Malkit Sweet Shop and on the first floor of the shop I kept diary product, milk, Desi Ghee, Khoya, paneer and other product sugar, Dalda ghee, refined oil etc in huge quantity. In order to take care and for cleaning purpose, I employed one Harjot Kumar @ Jot S/o Ram Singh resident of Sarih for the last 2 and half year. I noticed that from my shop the huge

quantity of Desi ghee, Khoya, Paneer and other product sugar, Dalda ghee, refined oil etc. were started missing. Then I watched the CCTV camera recording installed outside shop. Then I saw that on intervening night of 30/31.12.2024 at about 4.45 Am, the Harjot Singh @ Jot who I kept for cleaning and take care of the shop alongwith their friends Kulwinder Singh @ Kinda, Mandeep Singh @ Deepa Sons of Malkit Singh and Hardeep Singh @ Ravi S/o Dalwara Singh resident of Sarih by stealing one tin of Refined, one dholi of desi ghee, khoya in a big bag, going from there. On this I checked the entire products lying in the shop, then I found that desi ghee in huge quantity, Khoya, paneer, and other product, sugar mark Dhan Laxmi M 31 and refined oil mark Shagun etc. stolen from my shop. Thereafter I enquired into, now I have full confidence that the whole product of my shop was stolen by Harjot Kumar @ Jot, Kulwinder Singh @ Kinda, Mandep Singh @ Deepa and Hardeep Singh @ Ravi, Harjot Singh @ Jot, Kulwinder Singh @ Kinda, Mandeep Singh @ Deepa and Hardeep Singh @ Ravi aforesaid on motor cycle bearing No. PB 10 DJ 5098 mark Platina color black selling the stolen material Desi Ghee, and refined tin etc. to their customer in a brick kiln which was not working of Village Sarih Ludhiana Road, if raid be conducted then they can be apprehend red handed. Legal action be taken against Harjot Singh @ Jot, Kulwinder Singh @ Kinda, Mandeep Singh @ Deepa and Hardeep Singh @ Ravi. The cost of the stolen material, I will provide lateron. Statement give, which is heard and correct.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“ROLE OF THE PETITIONER:-

5. That the petitioner along with his co-accused committed theft of the above noted material from the shop of the complainant along with his co-accused as mentioned above. Thus considering the nature of allegations, the petitioner is not entitled for the concession of anticipatory bail which is an extra ordinary relief and the same is granted only in exceptional

cases. However, as per police record, no other FIR has been registered against the petitioner.

EVIDENCE AGAINST THE PETITIONER:-

6. That there are direct and specific allegations in the FIR that the petitioner alongwith his co-accused has committed theft of the above noted material from the shop of the complainant.

7. That further investigation is still pending and in order to know the modus operandi of the crime and to recover the stolen material, custodial interrogation of the petitioner is very much required by the police. Moreover custodial interrogation of the petitioner is qualitatively more elicitation oriented than questioning the petitioner on anticipatory bail.

xxx xxx"

REASONING:

7. Theft relates to eatable items, most of the articles/materials have already been recovered from the co-accused.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner’s complying with the following terms.

13. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

14. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

16. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

18. A certified copy of this order would not be needed for furnishing bonds, and any

Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

11.03.2025
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.