

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

1. CRM-M No.8173 of 2017 (O&M)

Baltej Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

2. CRM-M No.23082 of 2017 (O&M)

Rishal Saini

... Petitioner

Versus

State of Punjab

... Respondent

Date of decision: 27th September, 2017

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Arunjeet S. Kakkar, Advocate for the petitioners.

Mr. H.S. Grewal, Addl. Advocate General, Punjab
for the respondent/State.

Mr. K.K. Gupta, Advocate for respondent No.2
in CRM-M-8173 of 2017.

Mr. Siddhant Chattopadhyaya, Advocate
for respondent No.3 in CRM-M-8173 of 2017.

FATEH DEEP SINGH, J.

Since both these anticipatory bail applications under Section 438 Cr.P.C. by petitioners Baltej Singh and Rishal Saini who both happen to be Assistant Managers of M/s Origo Commodities India Private Limited (in short, 'the Company') have arisen out of the same very FIR bearing No.65 dated 18.04.2015 under Section 406 IPC

pertaining to Police Station Canal Colony, Bathinda, are being taken up together for disposal for the sake of brevity.

Allegations in both these petitions are that Food Corporation of India had allocated paddy to PUNGRAIN for processing and which was further handed over to the Company which was supposed to handle the storage of the foodgrains in the area of District Bathinda. It was during the course of events, it transpired that from the stores of the Company foodgrain comprising of paddy worth almost Rs.3.00 crores was found short (total shortage being 44904.28 quintals) and thus, upon enquiry by the complainant Dinesh Yadav, Manager of the Company led to holding of the two petitioners and others guilty of embezzlement of the same leading to registration of the present FIR.

Learned counsel for the petitioners Mr. Arunjeet Singh Kakkar, Advocate has vehemently argued that it was not embezzlement of the paddy in question but was on account of weight loss due to moisture loss and that the authorities have failed to consider this aspect arising out of change of weather over a period of time which led to shortfall in the weight and has submitted further that similarly placed co-accused has been allowed this relief by this Court.

The arguments are sought to be opposed by learned State counsel Mr. H.S. Grewal, Addl. Advocate General, Punjab assisted by Mr. K.K. Gupta and Mr. Siddhant Chattopadhyaya, Advocates

representing private respondents in one of the petitions, on the grounds that though shortage of rice in weight on account of loss of moisture was justifiable but as per the rules loss of such a huge quantity in terms of weight of paddy was in itself suggestive of embezzlement by the Managers/petitioners who were supposed to look after the godowns and in whose custody the same was kept and thus, it was a case of custodial interrogation.

Appreciating the submissions of the two sides, admittedly the complainant Company is itself admitting that there is normal shortage in weight on account of moisture loss which is justifiable but shortage of 44904.28 quintals of rice is much higher beyond the permissible limits and is totally unjustifiable how there is loss of 12480.27 quintals over and above the prescribed limits. Since the petitioners being Assistant Managers looking after the godowns where the foodgrains were stored and the fact that such a misconduct on the part of employees has caused immense loss to the instrumentality of the State and it is ultimately the PUNGRAIN which has to bear the financial loss and so the State, are matters of important significance. The factual scenario in the case of co-accused who has been allowed relief by this Court, are totally not at par with the case of the present petitioners. In the light of seriousness of the allegations custodial interrogation of the petitioners is very much essential to unearth such a massive embezzlement and which type of

scandals have attained notoriety in the State, impels this Court to decline the relief sought. Finding no merit, both the present petitions stand dismissed.

(FATEH DEEP SINGH)
JUDGE

September 27, 2017
rps

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