

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

CRM-M-37087 of 2021

Date of Decision: 08.09.2021

ASI/LR Binder Singh

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Achin Gupta, Advocate for the petitioner.
Ms. Monika Jalota, DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

Due to COVID-19 situation, the Court is convened through video conference.

This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR No. 72 dated 15.8.2021, under Section 409 IPC, registered at Police Station Cantt. Bathinda.

The FIR was registered on the basis of a report dated 27.7.2021 regarding missing of case property in FIR No. 19 dated 29.2.2016. The allegations against the petitioner are that he was Incharge of Malkhana. He got deposited the case property including gold ornaments through Rapat No. 27 dated 29.2.2016. On issuing the Rapat, he failed to produce the gold articles in court as evidence.

Learned counsel for the petitioner submits that the case property was deposited by the petitioner in 2016. He was Malkhana Incharge but for a short period of six months he was transferred to other police station and he also remained on leave on two occasions. He further submits that the petitioner is ready to deposit the value of the missing articles with the trial court without prejudice to his rights.

Learned counsel for the State appearing on advance notice opposes the prayer for anticipatory bail. She submits that apart from being

Malkhana Incharge, the petitioner deposited the case property in Malkhana. Vide Rapat No. 27 dated 29.2.2016. He was handed over the case property to be produced before the court but he neither produced the same before the court nor re-deposited in Malkhana. An undertaking was given by petitioner that he will produce the articles of the case property but he failed to do so. The contention is that the conduct of the petitioner is not above board. He was suspended but he remained absent from duty even fifteen days prior to his suspension.

There are serious allegations against an official of a disciplined force. The allegations are of mis-appropriation by a custodian. A deeper probe is required. It is not a case where question of money is involved that offer of the petitioner be accepted that he is ready to deposit the value of the articles alleged to be mis-appropriated. The allegations are more serious. The case property has been mis-appropriated which may result in affecting the evidence in FIR No. 19 dated 29.2.2016. The petitioner being a police official, there is always a chance of his tampering with the evidence and influencing the witnesses. To go to the root of the *modus operandi* and to recover the missing articles, it is a case where custodial interrogation of the petitioner is required.

The petition is dismissed.

[AVNEESH JHINGAN]
JUDGE

8th September, 2021

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |