

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

204

CRM-M-1859-2020

Date of Decision : **July 06, 2022**

BHARAT BHUSHAN

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. R.D.Yadav, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. Puneet Verma, Advocate for
Mr. Pawan Girdhar, Advocate
for respondent No.2.

JASGURPREET SINGH PURI. J. (Oral)

The present petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.149 dated 18.11.2019 under Section 409 of IPC, registered at Police Station Mohana, District Sonipat.

The learned counsel for the petitioner has submitted that in pursuance of the order passed by this Court on 20.1.2020, the petitioner has joined the investigation and he has cooperated with the investigation process and has also, therefore, prayed that the order dated 20.1.2020 may be made absolute. He submitted that it is a case where the petitioner was working as Manager in the Hafed and the foodgrains were stocked which were in the custody of the security agencies and there was also an agreement between the security agencies and Hafed with regard to the effect of any loss or theft, if any, and in the agreement it has been so mentioned that in such a situation the security agencies will indemnify the Hafed in this regard. He submitted that so far as the present petitioner is concerned, he has been falsely implicated only on the ground that he

was Manager of the Hafed of the particular area in which the Godowns are situated. He further submitted that in pursuance of the aforesaid agreement the security agencies have already furnished adequate bank guarantee to the Hafed and, therefore, so far as the present petitioner is concerned, the custodial investigation of the petitioner would not be required particularly in view of the fact that he has already joined the investigation.

On the other hand, the learned State counsel has stated on instructions from SI Samunder Singh that it is correct that the petitioner has joined the investigation. He further submitted that the recovery of the 1266 bags of foodgrains is yet to be effected from the petitioner. He submitted that the security guard who was posted there at the time of theft during investigation has stated that the petitioner has stolen the bags.

Mr. Puneet Verma, Advocate appearing for Mr. Pawan Girdhar, Advocate for respondent No.2 has submitted that it is correct that the security agencies have furnished adequate bank guarantee in pursuance of the aforesaid agreement. He further submitted that departmental proceedings are also initiated against the petitioner which are still pending. He also opposed the bail on the ground that recovery is to be effected from the petitioner.

I have heard the learned counsels for the parties.

In pursuance to the order passed by this Court on 20.1.2020, the petitioner has joined the investigation as per the learned State counsel. The only objection which has been raised by the learned State counsel as well as by learned counsel for the complainant is that the subject matter of the theft which are bags are yet to be recovered from the petitioner. However, the petitioner has categorically denied of committing any kind of theft and, therefore, such an objection would not be sustainable because it is a matter of evidence which can be, if at all, taken and proved at the time of trial. The departmental proceedings have also been initiated against the petitioner. On a specific query being asked from the learned counsels for the parties during the course of hearing as

to whether the charge-sheet in departmental proceedings has been issued or not, it has been stated by the learned counsel for the petitioner that till date no charge-sheet has been issued to the petitioner. It is also stated by learned counsels for the parties that in pursuance of the agreement between the Hafed and the security agencies, the amount which was the subject matter of the bags which were allegedly stolen, bank guarantees have already been furnished by the security agency. Be that as it may, as per the learned counsels for the parties, the petitioner has already joined the investigation and the aforesaid objection in the opinion of this Court would not be sustainable.

In view of the aforesaid position, the present petition is allowed and order dated 20.1.2020 is, hereby, made absolute.

It is made clear that if at any stage, the petitioner violates the condition of bail, then the State shall always be at liberty to file an appropriate application before the appropriate forum in accordance with law.

(JASGURPREET SINGH PURI)
JUDGE

July 06, 2022
ajay-1

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No