

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

**CRM M-19816-2020
Date of Decision: 20.07.2022**

Yash Pal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vishal Thakur, Advocate,
for the petitioner.

Ms. Akshita Chauhan, AAG Punjab.

MAHABIR SINGH SINDHU. J.

Third petition has been filed under Section 439 Cr.P.C. for grant of bail pending trial to the petitioner in FIR No.94 dated 03.12.2014, under Sections 406, 420 and 409 IPC registered at Police Station Behram, District Shaheed Bhagat Singh Nagar.

2. The above mentioned FIR was registered on the statement of Baljinder Singh, District Food and Supply Controller, SBS Nagar. He alleged that in the year 2010-2011, M/s Ram Jass Rice Mills, Sarhal Ranuan was allotted to Pungrain Agency. As per the record, Avtar Singh was the sole owner of said Mill. As per policy 2010-2011, an agreement was executed on 08.12.2010 with the owners and 98366 bags of paddy weighing 34428.10 quintal was stored in the Mill out of which 23066.83 quintal Rice was to be deposited with the FCI, but the Miller deposited only 7541.10 quintal Rice in the account of Pungarian and as such, 66208 bags of paddy weighing 11255.30 quintals was the deficiency against the Mill. The accused was informed through

the letters Kharif 2010-2011 vide letter No.1/2012/3752 dated 22.11.2012, 4088 dated 29.12.2011, 1770 dated 05.06.2012, to honour the conditions of agreement, but the accused has not responded to the letters and has not made any efforts to hand over the remaining deposit of the paddy. As per the letters of head office GM (Finance) 2012-258 dated 06.12.2012, directions have been issued that those Millers who do not comply with the direction upto 30.06.2012, thereafter, the amount of paddy will be recovered from them and as such 23171.80 quintals paddy amounting to Rs. 4,43,82,495/- is to be paid by the Miller. The Arbitration proceedings are pending before the Arbitrator-cum-Joint Director Food & Supply and the Miller remained appearing before the Arbitrator. When the Committee disclosed in the Arbitration proceeding that the Miller had left the country and the Special Committee had been constituted for Special Physical Verification and the office has sent letter No. 447 dated 11.1.2014 and No 688 dated 04.03.2014 in connection with the appointing of Duty Magistrate as the owner has left India. On 28.03.2014 the duty Magistrate Banga along with the Police Official visited the aforesaid Rice Mill and the Physical Verification was conducted after breaking open the locks. The report was attached with the complaint and the Videography was also done at the spot. As per the report, the Miller had embezzled the rice stock articles of the remaining paddy. The rice was not found and the aforesaid Miller has misappropriated the same. The Miller has misappropriated, embezzled and cheated the government and violated the agreement. As per clause 11, the Miller has to deposit total rice upto 30.06.2012 and due to non deposit of rice, the Miller was liable to pay for the loss and penalty and as per clause 12, the Miller was also liable to pay 12% interest. As such accused has violated the agreement with the government & levy control order 1983 and as such

misappropriated Government Paddy. The miller is liable for action and registration of FIR against him.

3. This Court, on 18.08.2020, while granting interim bail to the petitioner, passed the following order:-

“Affidavit dated 29.07.2020 filed by Ms. Alka Meena, IPS, Senior Superintendent of Police, SBS Nagar, District SBS Nagar, Punjab on behalf of the respondent/State is taken on record.

Registry to tag the same at appropriate place.

Perusal of above affidavit reveals that despite having committed the bungling of more than Rs.4 crores, main accused i.e. Avtar Singh is enjoying abroad, and the police has failed to take any appropriate action in the matter. Let the matter be brought to the notice of Director General of Police, Punjab forthwith and he shall file his affidavit regarding the necessary steps to be taken against the erring police officials as well as for recourse to bring back the co-accused Avtar Singh.

Adjourned to 28.10.2020.

In the meanwhile, keeping in view the period of long custody of the petitioner i.e. more than three years, he is ordered to be released on interim bail till next date of hearing subject to furnishing adequate bail/surety bonds to the satisfaction of the learned CJM/Trial Court/Duty Magistrate concerned.”

4. Learned counsel, on instructions from petitioner, submits that he has been regularly appearing before learned trial Court. Further contends that petitioner is not involved in any other case. Also contended that in case, petitioner is granted bail on regular basis, there is no apprehension or allegation that petitioner shall influence the witnesses or tamper with the evidence in any manner. Further submits that entire prosecution evidence is over and now case is fixed for defence evidence/arguments.

5. The above factual position is duly acknowledged by learned State Counsel.

6. In view of the above, this Court is of the opinion that sending the petitioner in custody at this stage would not serve any purpose. Consequently, the present petition is allowed and interim bail granted vide order dated 18.08.2020, is made absolute. Petitioner be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.

8. The above observations may not be construed as an expression of opinion on the merits of the case.

9. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

10. Inspector General of Police (Ludhiana Range), Ludhiana shall submit action taken report in pursuance of memo dated 30.12.2020 (R-1) within six months and thereafter, Registry will re-list the matter.

20.07.2022
SN

(MAHABIR SINGH SINDHU)
JUDGE

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