

CRM-M-24054-2023

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

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CRM-M-24054-2023

Date of decision: 05.10.2023

Baljinder Singh @ Bhinder

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vinod K. Kaushal, Advocate for the petitioner.

Mr. Mohit Thakur, AAG Punjab.

ARUN MONGA, J. (Oral)

Following the denial of bail by the learned trial court, the petitioner is now before this court seeking his release as an undertrial in a case with FIR No. 18 dated 29.01.2023, registered under Sections 457 and 380 of the Indian Penal Code, 1860 (IPC) (offences under Sections 455, 342, 395 of the IPC, and Sections 25 and 27 of the Arms Act, 1959, added later on) at the Jandiala Police Station in Amritsar.

2. FIR was lodged on the statement of the complainant, Salinder Singh, alleging that he was working as a Manager at National Commodities Management Services Limited since 2018. The godown of the said company was situated in village Safipur, Jandiala, Tarn Taran Road, where rice from Supple Tek Foods, village Chabba, Tarn Taran, Amritsar, had been stored. On 29.11.2023, at about 07:00 pm, when the complainant reached the spot, he found that the security guards, who were on duty at the godown, were tied to chairs. They apprised the complainant that around 20 persons armed with weapons had arrived at the godown on different vehicles at about 01:00 am and

committed theft of rice bags after tying them. In the course of the investigation, the petitioner was arrested on 15.02.2023, and recovery of the truck used in the occurrence was made.

3. Learned counsel for the petitioner contends that the FIR was registered on the basis of a concocted version by the complainant. The petitioner is neither named in the FIR nor connected with the alleged offence. The recovery alleged to be made from the petitioner is planted, and the petitioner has been falsely implicated in the present case.

3.1 Furthermore, it is submitted that there is no substantial evidence against the petitioner. The petitioner's counsel also contends that there is no need for further custodial interrogation of the petitioner, as nothing remains to be recovered from him. Moreover, there is no indication that the petitioner would tamper with evidence or influence prosecution witnesses.

3.2 Furthermore, the co-accused of the petitioner, namely, Sahib Singh @ Sabha, has been granted the concession of interim pre-arrest bail by this Court vide order dated 11.08.2023, passed in CRM-M-39396-2023. Thus, he is entitled to the concession of bail.

3.3 He further submits that the petitioner has been in custody since 15.02.2023, and the challan has already been presented. The conclusion of the trial will take a long time. Thus, no useful purpose would be served by keeping the petitioner behind bars.

4. On the contrary, the learned State counsel strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He submits that the allegations against the petitioner are serious. Per custody certificate, the petitioner is involved in three

more cases, although he is on bail in one case, and in the other two cases, production warrants have been issued against him.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, it transpires that the investigation against the petitioner has been completed. The challan has been filed on 21.03.2023, but charges have not been framed. At this stage, the allegations against the petitioner are subject to trial. Of the eighteen prosecution witnesses, none has been examined so far. The trial's progress has been slow, and it is anticipated to take a considerable amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since February 15, 2023, for almost 08 months.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.

8. The petitioner is a 48-year-old married person, having a family comprising of wife and two children. Being a family man and having a fixed abode, it is unlikely that he poses any flight risk and/or will flee from trial proceedings.

9. Considering the overall scenario, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

11. In case, petitioner is found involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 05, 2023
Ajay

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