

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(I) CRM-M-54759-2022 (O&M)

Jaswinder KumarPetitioner
Versus
State of PunjabRespondent

(II) CRM-M-52051-2022 (O&M)

Sawinder SinghPetitioner
Versus
State of PunjabRespondent

(III) CRM-M-46562-2022 (O&M)

Jaspal SinghPetitioner
Versus
State of PunjabRespondent

(IV) CRM-M-43800-2022 (O&M)

Parmod Kumar GargPetitioner
Versus
State of PunjabRespondent

Date of Decision: 06.02.2023

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Preetinder Singh Ahluwalia, Advocate,
for the petitioner in CRM-M-54759-2022.

Mr. Anmol Singh Virk, Advocate with
Mr. Jagdeep S. Virk, Advocate,
for the petitioner in CRM-M-52051-2022.

Mr. Lakhwinder Singh Mann, Advocate,
for the petitioner in CRM-M-46562-2022.

Mr. Pardhuman Garg, for the petitioner
in CRM-M-43800-2022.

Mr. Luvinder Sofat, DAG, Punjab
assisted by SI Ashok Kumar.

GURVINDER SINGH GILL, J.

1. This order shall dispose off the aforesaid four petitions filed on behalf of Jaswinder Kumar, Sawinder Singh, Jaspal Singh and Parmod Kumar Garg respectively, seeking grant of anticipatory bail in respect of a case registered vide FIR No.20 dated 22.08.2022 at Police Station Vigilance Bureau, Patiala, under Sections 409, 420, 120-B IPC and Sections 13(1)(a) read with Section 13(2) of the Prevention of Corruption Act.
2. The facts leading to lodging of FIR are that initially a complaint i.e Complaint No.149/2015 was submitted by one Ram Sarup to Vigilance Bureau against Inspectors, Food and Supplies Department, Punjab working in Rajpura, Nabha, Samana and Patran, pertaining to less distribution of wheat meant for distribution amongst persons below poverty line. The matter was investigated by Vigilance Bureau and on the basis of inquiry report, the instant FIR was lodged.
3. As per said report, Jaspreet Singh, Avishek Bansal, Jaspal Singh, Miss Namrata, Harvinder Singh, Preet Kamal Singh Cheema, Pramod Garg, Rajwinder Singh, Jaswinder Kumar, Rahul Kumar, Savinder Singh, Gurpreet Kaur and Jaspreet Dhiman were all posted as Inspectors at Samana and had charge of various zones from December, 2013 to March, 2016. It is alleged that during inquiry, entire record pertaining to distribution of wheat was not produced by Inspectors and the record which was produced had

been partly maintained or was found erased. It is thus alleged that during December, 2013 to March, 2016, the Inspectors embezzled about 26,868.75 quintals of wheat worth Rs.3,85,49,552/-, which was actually meant to be distributed amongst the people falling within the domain of 'Below Poverty Line'.

4. Learned counsel appearing on behalf of the petitioners have submitted that they have falsely been implicated in the present case after about more than 8 years of the alleged embezzlement and that most of them had already been transferred either during the period in question i.e. December, 2013 to March, 2016 itself or thereafter from their place of posting and had duly relinquished and handed over their respective charge to their successors and since no complaint or objection was ever raised during these years, as regards any deficiency of articles or record, the petitioners cannot now be found at fault in case there is some mis-match of record or in case some record is not available. It has further been submitted that none of the petitioners' successors ever had lodged any complaint to their superiors as regards there being any deficiency or that the petitioners had not handed over all the record at the time of relinquishment of charge.
5. It has also been submitted that the FIR arises out of a vague complaint initially submitted by one Ram Sarup against all the Inspectors working in Rajpura, Nabha, Samana and Patran, pertaining to less distribution of wheat meant for distribution amongst persons below poverty line, but later the said Ram Sarup, upon being satisfied in inquiry, had withdrawn his complaint as is also admitted by respondent in documents attached with Memo dated 13.10.2022 of District Controller, Food Supplies and Consumer Affairs,

Patiala (attached as Annexure R-4 with replies filed in CRM-M-43800-22 and CRM-M-46562-2022). It has, thus, been submitted that the instant case is not such where custodial interrogation of the petitioners is warranted.

6. Opposing the petition, learned State counsel has submitted that the accused had not produced complete record and that the record which was produced was either not properly maintained or had been erased so as to conceal the embezzlement. It has been submitted that from the mis-match of record shortage pertaining to distribution of wheat collected from various centers/zones, had surfaced which is estimated as 26,868.75 quintals worth Rs.3,85,49,552/-, which had apparently been embezzled.
7. Learned State counsel, while referring to the reply filed in Jaswinder Kumar's case, has submitted that he had committed embezzlement of wheat worth Rs.11,23,120/- during the period from December, 2013 to March, 2016. It has, however, been categorically stated in Para 7 of the Preliminary Submissions that the petitioner (Jaswinder Kumar) had produced the entire record and that there is no need for his custodial interrogation. While referring to the reply filed in Sawinder Singh's case, learned State counsel has submitted that he (Sawinder Singh) had not maintained the record of wheat stock weighing 937.50 quintals worth Rs.13,59,375/- and that there was discrepancy of wheat stock weighing 302 quintals worth Rs.4,37,900/- towards wheat supplied and margin money received by depot holder. It has also been alleged that certain sale registers are missing and for which the custodial interrogation of the said petitioner is required. Learned State counsel, while referring to replies filed in Jaspal Singh's case and in Pramod Garg's case, has submitted that their custodial interrogation required as there

is discrepancy in record and some record is missing and the same is required to be got recovered from them. It has, thus, been submitted that the same is being withheld in an attempt to conceal the offence committed by them during the period in question.

8. This Court has considered rival submissions.
9. The case of the prosecution came to be initiated on the basis of a complaint made by one Ram Sarup with the allegations of embezzlement of wheat meant for distribution amongst people falling with the domain of 'Below Poverty Line', during the period of December, 2013 to March, 2016. Since the FIR came to be lodged pursuant to inquiry conducted in said complaint, therefore, it is apposite to refer to said Enquiry Report No.265 dated 08.04.2019 (attached with reply as Annexure R-1 in all the four cases), The gist of the relevant extract is reproduced herein under:

Gist of Enquiry Report No.265 dated 8.4.2019

Record of wheat distributed in Rajpura, Nabha and Patran was found to be correct and no fraud was found. However, since record pertaining to sale of wheat was not provided by Samana Centre, therefore the same could not be checked. Consequently, the record was obtained from the Department of Food Supplies (Ministry) and was checked by technical team of Food Supply, which observed as follows:

1. In some registers, pertaining to period December 2013 to May 2014, the entries have been made in terms of number of bags and not as per weight. The technical team assumed the weight to be 30 kg.
2. Some alterations and over-writings in entries were noticed.
3. In the record of Depot Holder Shashi Bhushan, signatures of consumers are present but quantity delivered is not mentioned.

4. In the record of Depot Holder Birbal Singh, signatures of consumers are present but quantity delivered is not mentioned.
 5. In the record of Depot Holder Pyare Lal, less wheat has been given to card holders and later by making an additional entry, the figures are shown to match.
 6. The record available does not match with margin money, which is given to depot holders upon sale/distribution of wheat.
10. In the aforesaid report No.265, which is basis of FIR, the deficiency has been estimated mainly on the basis of incomplete entries or missing entries or missing record. At this juncture, a reference also needs to be made to Memo dated 13.10.2022 of District Controller, Food Supplies and Consumer Affairs, Patiala (attached as Annexure R-4 with replies filed in CRM-M-43800-22 and CRM-M-46562-2022). The said Memo is accompanied by some documents which includes report dated 15.09.2016 of Food and Supplies officer (part of Annexure R-4), statement of complainant Ram Sarup to the effect that he along with Food and Supplies Officer and Harvinder Singh went for checking of various depots in Samana and contacted a number of consumers and Sarpanches and all of them stated that wheat had been distributed under supervision of 'Nigraan Committee' and had been distributed correctly and that they have no complaints as regards distribution. Ram Sarup further stated that in view of said position, he is satisfied and withdraws his complaint. The names of the villages visited, falling in Samana Centre and checked by Food and Supplies Officer and the number of statements recorded find mentioned in report dated 15.09.2016 (part of Annexure R-4) and the contents are briefly stated herein under:

1. In village *Kakrala*, statements of 38 consumers recorded who stated that they received wheat in right time and of correct weight.

Sarpanch and Panches of said village also expressed satisfaction as regards distribution of wheat and stated that wheat had been distributed in presence of '*Nigraan Committee*' and that they have no complaints.

2. In village *Shahpur*, statements of 10 consumers recorded who expressed satisfaction as regards distribution of wheat.

Sarpanch of said village stated that wheat had been distributed in presence of '*Nigraan Committee*' and that they have no complaints.

3. In village *Gejumajra* statements of 8 consumers recorded who expressed satisfaction as regards distribution of wheat.

4. In village *Nagri*, statements of 10 consumers recorded who stated that wheat had been distributed in presence of '*Nigraan Committee*' expressed satisfaction as regards distribution of wheat.

Sarpanch of said village also stated similarly.

5. In village *Kulbarchan*, statements of 8 consumers and also that of Sarpanch recorded who stated that wheat had been distributed in presence of '*Nigraan Committee*' and that they have no complaint.

6. In village *Khanpur Marrian*, statements of 5 consumers and also that of Sarpanch recorded who stated that wheat had been distributed in presence of '*Nigraan Committee*' and that they have no complaint.

7. In village *Fatehpur*, statements of 6 consumers and also that of Sarpanch recorded who stated that wheat had been distributed in correct quantity and right price.

8. In village *Ugoke*, statements of 7 consumers and also that of Sarpanch recorded who stated that distribution of wheat had been done in fair manner and that they have no complaint.

9. In village *Buta Singh Wala*, statements of 7 consumers and also that of Sarpanch recorded who stated that they don't have any complaint and are satisfied as regards wheat distribution.

10. In village *Dhanetha*, statements of 7 consumers and also that of Sarpanch recorded who stated that they are satisfied with the distribution of wheat.

11. In village *Sehajpura*, statements of 6 consumers and also that of Sarpanch recorded who stated that they don't have any complaint and are satisfied with wheat distribution.
 12. In village *Nanhera*, statements of 12 consumers and also that of Sarpanch recorded who stated that they have received wheat as per their ration-cards and that don't have any complaint.
11. The Food and Supplies Officer, on the basis of aforesaid statements of 154 consumers and 12 Sarpanches opined that wheat had been distributed in the right manner.
12. The above referred two reports i.e. one by Inspector, Vigilance Bureau (Enquiry Report No.265 dated 08.04.2019) based on the available record and the second by Food and Supplies Officer (report dated 15.09.2016 of Food and Supplies Officer (part of Annexure R-4) are rather contradictory to each other. While report of Inspector, Vigilance Bureau, inculcates the accused, the report of Food and Supplies Officer exonerates them. As noticed above, the report of Inspector, Vigilance Bureau, is based solely on available record evidence which is not found to be completely maintained or has over-writing or is completely missing, the report of Food and Supplies Officer is based on statements of consumers and Sarpanches of 12 villages falling in Centre Samana, recorded in the presence of original complainant Ram Sarup, who has later expressed his satisfaction as regards distribution of wheat. At the same time, this Court also finds that Food and Supplies Officer and Ram Sarup, at the time of inspection, were also accompanied by Harvinder Singh, who has later been found to be accused.
13. Admittedly, the petitioners during the period 2013 to 2016 had been transferred on one occasion or the other from the places where they had

remained posted during the period in question and would have handed over charge to their successors. No complaint has ever been moved by any of their successors to their superiors regarding missing of any stock or the accused not having handed over record.

14. Thus, in the absence of any complaint from any consumer or depot holder regarding distribution of wheat and/or in the absence of the any complaint from the petitioners' successors regarding missing of any stock or that they (petitioners) had not handed over complete record, the petitioners, who stand transferred from their place of postings long back, cannot be held responsible for disappearance of record, which is alleged to have been not been produced by accused so as to conceal embezzlement, particularly at this belated stage as several persons would have remained posted at the places from where shortages of wheat are stated to have been found. While the allegations pertain to the period from December, 2013 to March, 2016, the instant FIR was lodged in the year 2022 i.e. after about more than 8 years. Therefore, custodial interrogation of the petitioners would not be justified.

15. All the petitions, as such, are accepted and the petitioners, in the event of their arrest, are ordered to be released on bail subject to their furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

16. It is however clarified that the observations recorded above have been recorded solely for the purpose of considering grant of bail and are not to be treated as any expression as regards innocence of accused.
17. A photocopy of this order be placed on all the connected files.

06.02.2023

Vimal

(GURVINDER SINGH GILL)
JUDGE

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