

206 (1st case)

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

**CRM-M-1618-2024 (O&M)
Date of decision : 15.04.2024**

Buta Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Prateek Sharma, Advocate for
Mr. Vinay Yadav, Advocate for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.728 dated 27.12.2023, under Section 379 of the Indian Penal Code, 1860, registered at Police Station City Tohana, District Fatehabad.

(2) Above FIR was registered on the basis of statement made by complainant-Sanjay Kumar with the allegations that on 26.12.2023, during night hours, some unknown persons committed theft of 70 bags of paddy, weighing 50 Kgs. each worth Rs.1,22,500/-.

During investigation, co-accused Resham Singh, Kala Singh and Ramesh Kumar were apprehended along with 18 bags of paddy, loaded in a Pick-up vehicle bearing registration No.HR-39-E-1270. Co-accused suffered

their respective disclosure statements regarding committing the offence along with present petitioner.

(3) Contends that petitioner was granted interim bail by the Coordinate Bench, vide order dated 15.01.2024 and in pursuance thereof, he has already joined the investigation; thus, his custodial interrogation is not required.

(4) Learned State Counsel, on instructions from ASI Gurpreet Singh, acknowledged the above factual position and submits that as on today, custodial interrogation of the petitioner is not required.

(5) Heard learned Counsel for the parties and perused the paper-book.

(6) It is not in dispute that petitioner was granted interim bail by the Coordinate Bench on 15.01.2024 and the order reads as under:-

“The jurisdiction of this Court has been invoked under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioner in FIR No.728, dated 27.12.2023, under Section 379 IPC, 1860, registered at Police Station City Tohana, District Fatehabad.

Learned Counsel for the petitioner has contended that there is an inexplicable delay of one day in lodging the instant FIR and the petitioner has been nominated in the present case on the basis of disclosure statement. Moreover, there is no separate distinction marks or identification marks have been found on the rice bags alleged to have been stolen, as these bags are commonly available in the market and may have been easily planted against the petitioner.

Notice of motion.

At the asking of Court, Mr. B.S. Virk, Sr. DAG, Haryana, who is appearing on advance notice accepts the same on behalf of respondent-State. The aforesaid fact has not been denied by learned State Counsel and on instructions, he submits that there

is no direct incriminating material against the petitioner except the disclosure statement and prays for dismissal of the present petition, on the ground that petitioner is a habitual offender.

Looking into the totality of the facts and assertions made therein, and primarily considering the fact that the petitioner has been nominated on the basis of disclosure statement, who otherwise is not a hardcore criminal and is ready and willing to join the investigation would definitely help the investigating agency in speedy accomplishment of the same and bringing the main culprits to book. Considering the facts that it is not such a high handed case, where a custodial interrogation is required, the petitioner is granted interim bail subject to his joining investigation within a week from today.

As far as the contention of learned State counsel with regard to pendency of other cases is concerned, reliance can be placed upon the order of this Court rendered in CRM-M-25914-2022 titled as “Baljinder Singh alias Rock vs. State of Punjab” decided on 02.03.2023, wherein, this Court observed that pendency of other FIRs involving the accused-petitioner cannot be a predicament to consider the case for anticipatory bail or regular bail, as the evidence of the material involved in those FIRs can be treated in those cases alone and not material in instant FIR against the accused-petitioner to hold him guilty.

In the event of arrest, he shall be released on interim bail subject to his furnishing personal/surety bond to the satisfaction of the Investigating Officer. He is also directed to join the investigation as and when called for. He shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Adjourned to 15.04.2024.”

(7) It is acknowledged by learned State Counsel on instructions from ASI Gurpreet Singh that in pursuance of the aforesaid order, petitioner joined the investigation and as on today, his custodial interrogation is not required.

- (8) In view of the above, present petition is allowed; interim order dated 15.01.2024 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
- (9) It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
- (10) The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
- (11) It is clarified that in case there is recurrence on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.
- (12) Pending application(s), if any, shall also stand disposed off.

15th April, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes