

CRM-M No.28551 of 2024

Reserved on: 12.08.2024

Pronounced on: 30.08.2024

Shashi Bhushan @ Nikka Shallerwala

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Raghav Gulati, Advocate
for the petitioner(s) .

Mr. Sukhdev Singh, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
33	04.04.2024	City Rampura, District Bathinda	457, 380, 411 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 6 of the bail petition, the accused declares that he has no criminal antecedents.
3. Facts of the case are being taken from reply dated 17.07.2024 which reads as under:

“3. That the facts of the case are as under:-

(i). Initially, the FIR in question was registered u/s 457,380 IPC against two accused by name (1) Sanjay Kumar @ Trala Kala son of Ram Lal (2) Ajay son of Nainpal and one unknown person on the statement of Surinder Pal Garg son of Ram Dyal and one unknown person. It was stated by the complainant that he is doing the business of rice in the name of Mahadev Rice Mills and Sangram Rice Mill. Maninder Garg (son of the complainant) was looking after the work of Mahadev Rice Mills On 03.04.2024 at about 7.00AM, when the said Maninder Garg went to Mahadev Rice Mills, he found that 157 bags of rice were stolen. The complainant came to know that the accused persons had stolen the said rice bags in the intervening night of 2/3.04.2024.

(ii). During questioning, the accused Sanjay Kumar disclosed that he sold the stolen rice to Harish Kumar son of Madan Lal, so the name of the said Harish

Kumar was nominated in the FIR in question vide DDR No.27 dated 05.04.2024. The offence u/s 411 IPC was added in the FIR in question vide DDR No.31 dated 08.04.2024. During investigation, it was found that Sunil Kumar @ Shilla son of Amar Nath purchased the stolen rice from accused, so the name of the said Sunil Kumar @ Shilla was nominated in the FIR in question vide DDR No.33 dated 03.05.2024. During investigation, it was found that Darshan Singh son of Surjit Singh and Shashi Bhushan @ Nikka Shallerwala (present petitioner) purchased the stolen rice from accused, so the names of the said persons were nominated in the FIR in question vide DDR No.32 dated 19.05.2024.

(iii). Now there are six accused in the FIR in question and the FIR in question is for offences u/s 380,457,411 IPC. The accused Sanjay Kumar @ Trala @ Kala, Ajay, Sunil Kumar @ Shilla and Harish Kumar are now on bail. The arrest of the remaining two accused i.e. present petitioner and accused Darshan Singh has been stayed by this Hon'ble High Court.

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State opposes bail and refers to relevant paras of the reply which read as follows:

"4. That during the investigation, the incriminating evidence came on file against all the accused including the petitioner. During the investigation, it was found that the accused Sanjay Kumar and Ajay stolen 157 bags of rice from the business premises of the complainant and they sold the same to co-accused. After completing the investigation, the challan in the FIR in question was filed against three accused Harish Kumar, Sanjay Kumar and Ajay and now the case is pending before the learned court of SDJM, Phul and the next date of hearing is fixed for 11.07.2024. The charges are yet to be framed.

*5. **Role of the petitioner** - The petitioner purchased the stolen rice from co-accused. He was having knowledge that the rice is being purchased by him, is stolen articles. The petitioner actively participated in the commission of crime."*

6. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

7. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

8. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

9. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

10. This order is subject to the petitioner’s complying with the following terms. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

11. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

12. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

13. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024

Sonia Puri

Whether speaking/reasoned: Yes

Whether reportable: No.