



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-35323-2024
Decided on : 31.07.2024

RAJESH KUMAR

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Jasinder Singh Sekhon, Advocate
for the petitioner(s).

Mr.R.S.Thind, DAG, Punjab

Mr. Narender Kumar Vashist, Senior Panel Counsel
for UOI.

KIRTI SINGH, J. (Oral)

This petition under Section 438 Cr.P.C. has been filed seeking anticipatory bail in Criminal Case No.03 dated 24.05.2024 under Section 3 of Railway Protection (Unlawful Possession) Act, registered at Police Station RPF Patiala, District Patiala.

2. As per the Report of R.P.F. Post Patiala, it has been alleged as under:-

“At this time, myself SI Daljit Singh alongwith ASI Virender Singh, HC Tejvir Singh, CT Gurbaksh Singh, CT Ashish arrested the accused on the spot and brought him with two bags of stolen wheat came present at the post and explained the circumstances of the case to INSP/PTA and report has been registered on dated



24.05.2024 that taking along the above staff at about 06:00 as per DD No IC ITA Station /DBN section SRPR duty during the patrolling duty at SRPR we all the officials were standing at Railway Guard Line No.06 and while checking the loading F/G SPL were coming towards RIF/TP Eaneck side towards Mal-Godown office then at about 2:00 AM one motor-cycle was spotted consisting of one Splender and second PULSAR on which four persons were riding towards Food Gram SPL near closed door Liggon No.Sch 1703, after steeling two bags of wheat by carrying one bag on each motorcycle, they were trying to flee then we RPF staff were away just 20/22 meters near Nala of dirty water, we caught hold of one bag from motorcycle Splender and the driver of the motorcycle succeeded in running from the spot and two persons riding on PULSAR motorcycle also ran away. There were no number plates on the front and back of both the motorcycles. La Later on the person caught on the spot was interrogated who disclosed his name/address as Mani @ Papri Group Ladi Singh, aged 22 years, R/o Opposite Gurudwara, Alipur Post, Grain Market, District Patiala and told that he alongwith his fellow companions Raja, Bablu, Rajesh jointly came there to commit theft at F/G SPL. Motorcycle Splender was being driven by Raja and PULSAR was being driven by Rajesh and Bablu was sitting pillion. He also disclosed that earlier also they have been kept in custody in connection with theft of railway property. Some injury also came on the foot of Mani @ Papri at the time of catching him. Later on the spot, the wheat bag was checked and found that in the bardana of bag, Punjabi branch Punjab Government Crop stock Paddy Dungar was written in English Crop Year 2024-25, Govt. of Punjab, Manufacture Naprathi and the accused on the spot by keeping in his possession stolen wheat bag, the accused has committed offence u/s 3RP(UP) Act and the memo got prepared on the spot and the deposited in FG SPL, Er PTA TO MDP (Jharkhand) and the after getting opened the gate of District Lockup vide ledger No. SCR 17503 got deposited the stolen wheat bag with on duly FCI where it was told that the same was issued by FCI godown issued memo. Then some witness was tried to join on the spot who without informing their name/address and giving reference of theft left from the spot. Memo of recovery got prepared on the spot and all the witnesses put their signatures on the memo. After taking one copy of memo and the accused caught on the spot, all the officials taking along the accused left. On reaching on the centre, u/s 06 RP(UP) Act was added and at 13:70 the accused got arrested and his personal search got conducted and nothing got recovered from the accused apart from his clothes. The memo prepared on the spot was read out and all witnesses put their signatures. The accused confessed that his name/address is correct. Earlier also he has been booked in the theft of railway property. Today on dated 24.05.2024 alongwith his fellow companion Raja riding on Splender motorcycle and all other fellow companions Rajesh and Bablu riding on Pulsar motorcycle after opening the gate of closed door has committed theft of two bags of railway wheat. On the spot caught with two bags of wheat and my fellow companions Raja, Rajesh and Bablu ran away on their motorcycle. On coming in



front, I can identify all the three companions and two motorcycles. From which F/G SPL godown, the wheat has been stolen, I can get identify the same. The memo of confession prepared at 13:50 hrs was read out on the spot in the presence of witnesses and all of them put their signatures. Map on the spot got prepared. Later on the basis of confession of the accused, the accused in the custody of RPF Part-2 walked in front and took the party to Railway Ward Line No.6 parked F/G Load SPL Ex PTA to MDP No.17503 and after opening the Wagon and gave nishandehi of two bags of railway wheat on dated 24.05.2024 alongwith his companions Raja, Rajesh and Bablu. Nishandehi of Wagon, recovered two bags of wheat got compared and found correct. Memo of nishandehi, myself SI at 14:15 got prepared on the spot and read out in the presence of witnesses and all of them put their signatures. Recovered two bags of wheat and the accused were produced before FCI Department's memo 01/FCI/FG/2624 dated 24.05.2024 and myself SI got registered against the accused report No.RPF/POST/PTI CC No.03/24 u/s 3RP (UP) Act accused Moni @ Paldi dated 24.05.2024 at 14:50 hrs and submitted for pronouncement of punishment. Earlier the accused was confined in lockup and the guard HC Jagjit Singh was handed over its keys. The accused was informed that his offence and information of his arrest was given to Sunny, brother of the accused. Statement of the accused is being registered. During action of the case, all rules and regulations and directions have been taken care of. Information is being given to DS-II Gurgaon and the senior officers. Information regarding arrest has been given to the Area Magistrate. The recovered railway property has been kept in a secured place and efforts are being made to arrest the other accused. Further investigation of the case is being conducted by ASI Virender Singh. Cost of stolen railway property has been fixed as Rs.7000/- and all information has been given to the concerned department."

3. Learned counsel for the petitioner *inter alia* submits that allegedly the petitioner along with co-accused had committed theft of grain bags from the railway station. He also submits that the petitioner has been falsely implicated in this case, he was nominated on the basis of disclosure statement suffered by co-accused-Mani and no recovery has been effected from the petitioner.

4. Notice of motion.

5. On the asking of the Court, Mr.R.S.Thind, DAG, Punjab accepts notice on behalf of the respondent State and Mr. Narender Kumar

Vashist, Senior Panel Counsel accepts notice on behalf of Union of India.



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6. Per contra learned Senior Panel Counsel for the respondent-UOI on instructions from ASI Virender Singh RPF Patiala submits that petitioner is a habitual offender and earlier also he had committed similar offences. He has also contended that there are three other cases pending against him:

- (i) CC-14-2023 under Section 3 of RP(UP) Act, RPF Post Patiala.
- (ii) CC-15-2023 under Section 3 of RP(UP) Act, RPF Post Patiala.
- (iii) FIR No.260 under Section 21 of NDPS Act, Police Station Anaj Mandi, District Patiala.

5. Heard the rival submissions made by both the parties.

6. This Court has perused the case file and with the able assistance of the learned counsel for the parties this Court has come to a conclusion that the evidence produced so far has established a prime facie case regarding the involvement of the petitioner in the alleged offence, and the case is at the stage of investigation. In ***Jai Prakash Singh v. State of Bihar and another : (2012) 4 SCC 379***, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty.

7. Further, the factum of other complaints made against the petitioner with similar allegations prima facie show his previous involvement in such offence gain significance and provides strength to the allegations levelled in the present FIR which thus, requires custodial interrogation of the petitioner in the present case, it may hamper the effective investigation.

8. Thus, in the facts and circumstances of the present case,

Considering the nature of the accusations as well as antecedents of the



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petitioner, I do not find any merit in the present petition, so as to exercise power under Section 438 Cr.P.C. granting discretionary relief of anticipatory in his favour. The present petition is **dismissed**.

(KIRTI SINGH)
JUDGE

July,31 2024
Kavita Nain

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