

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47200-2024
Reserved on: 16.10.2024
Pronounced on: 28.10.2024

Yadwinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Sandeep Kaur, Advocate
for the petitioner.

Mr. Akshay Kumar, A.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0169	02.08.2022	Sadar, Ferozepur, District Ferozepur	409/120-B IPC and 13 of the PC Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 27 of the bail petition, the accused declares that he has no criminal antecedents, however as per custody certificate, petitioner has following criminal antecedents:-

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	275	02.08.2022	409, 120-B IPC	City Ferozepur
2.	277	02.08.2022	409, 120-B IPC	City Ferozepur
3.	276	02.08.2022	409, 120-B IPC	City Ferozepur

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“4. That in furtherance of Letter No. DFS-STRG-015/26/2022 STORAGE/748 dated 22-06-2022, the Deputy Director, Food and Civil Supplies, Ferozepur Division, vide Letter no. DDF. 2022/223 dated 20-06-2022 and DDF/2022/242 dated 28-06-2022 had initiated the Inter- District Physical verification of Wheat Stock of Pungrain for the quarter ending 30-06-2022 at different godown and for this purpose various teams were

constituted to verify the stock maintained at various godowns.

In this process, a team led by Sh. Harpreet Singh, Asst. Food and Civil Supplies officer, Nihal Singh wala reached at one of the storage site known M/s Pawan Kumar & Co- owners Open Plinth on 31-07-2022. During dissection of stack no. 55, 56 and 57 it was found that 410 wooden crates were artificially created in order to wrongfully fill the shortage. The outer formation stack was properly maintained but inside of sections, the bags were missing which was made intentionally. After dissectioning and rescating of bags, the deficiency of 6569 wheat bags (30 kg bag each) total weight 1970 Qtl. was detected. The stock was misappropriated by the officials/ Inspectors of the department for their personal benefit and thereby the State has to suffer a loss of Rs. 44-00 lakh. The Committee had suspicion that the loss may rise with the evacuation of entire stock but prima facie the loss assessed was of Rs. 44-00 Lakh.”

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

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“7. That the service record of the accused have been obtained and it is not at all in dispute that the Petitioner was posted as Inspector at Ferozepur Centre and was appointed as Joint custodian of the stock maintained by the department (PUNGRAIN) at their Godowns and Storage sites. Further the shortage of a huge quantity of wheat measuring 1970 Qtl is almost admitted by the petitioner and other co-accused. But the petitioner took a particular stand that the loss of shortage was inevitable by weather or rotten by animals or in some cases it was stolen by miscreants. But all the claims of the Petitioner are in complete contrast with the facts emerged during Physical verification. The stock was dishonestly misappropriated by all the accused which was in complete knowledge of the Petitioner and their liability is joint. The culpability of the Petitioner is evident from the artificial wooden crates inserted to fill the empty place of racks at storage cites which was made by the accused in connivance with each other.

8. That during investigation, statement of officials of PUNGRAIN namely i) Harpreet Singh s/o Gurlal Singh Assistant Food Supplies officer head of team ii) Mandeep Singh Inspector Nihal Singh wala, iii) Inspector NitishGarg, Badhni Kalan iv) Inspector Atul Goyal c/o Punjgrain Office, Moga have been recorded who established the Physical Verification report under investigation and proved the shortage of wheat stock at M/s Pawan Kumar and co-owners Open Plinth which was in the joint custody of all the accused named above. The record of the Pungrain with regard to the Stock in dispute was taken. The gate passes of relevant period proved that the during Crop Year 2022-2023 the quantity of 292353 bags (30 kg each) were stored in the said premises out of which the inspecting team detected the wrongful shortage of 6569 bags and thereby the State exchequer suffered a financial loss of Rs. 44-00 lakh.”

7. Pre-trial incarceration should not be a replica of post-conviction sentencing. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. Per the custody certificate dated 15.10.2024, the petitioner's total custody in this FIR is 02 months and 13 days. Given the penal provisions invoked viz-a-viz pre-trial custody, 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 further pre-trial incarceration at this stage.

8. 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. This order shall come into force from the time it is uploaded on this Court's official webpage.

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

10. 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)	

11. This order is subject to the petitioner's complying with the following terms.

12. 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.

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

14. 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.

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

28.10.2024
Jyoti Sharma

(ANOOP CHITKARA)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: No.