

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52568-2024
Reserved on: 08.11.2024
Pronounced on: 13.11.2024

Kanwaljit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. G.B.S.Dhillon, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
30	30.08.2023	Vigilance Bureau Range, District Amritsar	409 IPC and 13(1)(a) r/w 13(2) of PC (Amendment) Act, 2018

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 15 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the short reply filed by the State, which reads as follows:

“3. That the brief and the relevant facts of the case are that aforesaid FIR No. 30 dated 30.08.2023 was registered against co-accused Vikramjit Singh Godown Incharge/Custodian, Shah Open and Covered Godown, Khadur Sahib Centre, District Tarn Taran, son of Sucha Singh, resident of House No. 559, Dashmesh Nagar, Near Gill Farm, Hoshiarpur Road, Jalandhar, as per the direction of the office of the Chief Director, Vigilance Bureau, Punjab after obtaining sanction under section 17-A of the Prevention of Corruption Act, 1988 from the Director, Food, Civil Supplies and Consumer Affairs, Govt. of Punjab, Chandigarh vide Letter No. DFS-SE403 (3)/1/2022-A-4 (4)/1106 dated 12.07.2023 pursuant to the recommendation of the then Senior Superintendent of Police, Vigilance Bureau, Range Ferozpur vide letter dated 30.10.2020 on the basis of the report of the then Deputy Superintendent of Police, Vigilance Bureau, Unit Taran submitted by him in his office relating to the surprise checking and physical verification of the

wheat stock stored at Shah Open and Covered Godowns at Khadoor Sahib, under the entrustment/custody of the petitioner its Incharge/Guardian, by the Technical Teams/officials of the PUNSUP and MARKFED under his supervision from 20.10.2020 to 23.10.2020. During the aforesaid physical verification/checking, a misappropriation of 14,827/- bags of wheat weighing 30 kilograms each i.e., 1512 bags (30 kilograms each) in the year 2019-2020 and 13315 bags (30 kilograms each) in the year 2020-2021, having monetary value of Rs. 1,24,93,703.82/- by the aforesaid co-accused Vikramjit Singh was detected regarding which, he failed to give any satisfactory explanation. The detailed facts mentioned in the aforesaid FIR No. 30 dated 30.08.2023 have been reproduced in its true translation attached with the petition, which may kindly be read as a part of the present paragraph as same are not repeated here for the sake of brevity.”

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 short reply.

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

“5. That the petitioner was nominated as co-accused in the present case on dated 15.03.2024 on the basis of the disclosure statement dated 02.09.2023 of the co-accused Vikramjit Singh, suffered by him before the investigating officer during his custodial interrogation disclosing therein that the petitioner, being Assistant District Food & Civil Supply officer, PUNGRAIN was deputed as his Supervisor at the Shah Open and Covered Godown, Khadur Sahib Centre, District Tarn Taran and he was actively involved with him in the misappropriation of the wheat stock from the aforesaid godown and they both have misappropriated the wheat stock worth Rs. 30 lakh in the year 2019-2020 and worth Rs. 95 lakh in the year 2020-2021 and sold the same for their personal gains in the open market and divided the proceeds of the aforesaid misappropriated the wheat stock in equal shares. He further disclosed only the petitioner knew about the names of the persons to whom the misappropriated the wheat stock was sold by them. He further disclosed that the petitioner used to assure that him that on account of his long experience, he knew how to complete the stock after the commission of the misappropriation of the stored wheat from the stock.

7. That the evidence against the petitioner is in the form of the statements of the prosecution witnesses i.e., Amritpal Singh, Manager Markfed, Tarn Taran, Prabhdeep Singh, Sarabjit Singh, Manjit Singh and Tarunjit Singh, Inspectors of PANSUP, Amritsar; Raminder Singh, Food and Civil Supplies Officer, Tarn Taran and Khadoor Sahib, Gurpreet Singh and Amrinder Kaur, Junior Audit Officers, District Food & Civil Supplies Office, Tarn Taran, as well as the record from which has been found that the petitioner was deputed as a Supervisor and the co-accused Vikramjit Singh was deputed as an Incharge/Guardian of the Shah Open and Covered Godowns at Khadoor Sahib by the District Food and Civil Supplies Controller, Tarn Taran for the safe custody of the

wheat stock of the procurement agencies and they were primarily responsible to safeguard the entire physical wheat stock of the procurement agencies of the Govt. of Punjab i.e., PUNSUP, PUNGRAIN and MARKFED, which was stocked in the privately owned Shah Open and Covered Godowns at Khadoor Sahib, District Tarn Taran under their entrustment. It has been established from the record taken into possession during the course of investigation as well as from the physical verification of the wheat stock conducted by Technical Teams/officials of the PUNSUP, PUNGRAIN and MARKFED under the supervision of the then Deputy Superintendent of Police, Vigilance Bureau, Unit Taran from 20.10.2020 to 23.10.2020 that misappropriation of total of 14,827/- bags of wheat weighing 30 kilograms each i.e., 1512 bags (30 kilograms each) in the year 2019-2020 and 13315 bags (30 kilograms each) in the year 2020-2021, having monetary value of Rs. Am 1,24,93,708.83/- was committed by them in connivance and conspiracy with each other as they had failed to give any satisfactory explanation for the shortage of the aforesaid stock. Thus, it is established from the concerned record as well as the statements of the prosecution witnesses that the petitioner and co-accused Vikramjit Singh have caused a wrongful loss to the tune of Rs. 1,24,93,708.83/- to the State Exchequer by committing criminal breach of trust by way of misappropriation of 14,827/- bags of wheat weighing 30 kilograms each.”

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Per paragraph 10 of the bail petition, the petitioner has been in custody since 06.08.2024. Per the custody certificate dated 07.11.2024, the petitioner’s total custody in this FIR is 03 months. 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 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. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.
14. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
15. 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.
16. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

13.11.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.