



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

103

CRM-M-15185-2025

Date of decision: 27.03.2025

Shivraj Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. SPS Tinna, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)**1. Relief sought**

The jurisdiction of this Court has been invoked under Section 482 BNSS seeking pre-arrest bail in case FIR No.0014 dated 20.02.2025 under Sections 409 IPC (under Section 316(5) of BNS, 2023) registered at P.S Bahavwala, District Fazilka.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“ Complaint No. 763-PC-ABH-R dated 25.12.23, 31013-8 dated 20.12.23. Office of Assistant Registrar, Cooperative Societies, Abohar. To the Hon'ble Senior Superintendent of Police, Fazilka. No. R.K.1/ARA/2422 dated 18.12.2023. Subject: Regarding registration of case against the Salesman (under suspension) of The Sherewala Multipurpose Cooperative Agricultural Society Limited, Sherewala. Sir, regarding the above subject, Shri Karan Kumar, Inspector, Cooperative Societies, Khulan Sarwar with additional charge of Rukanpura has sent a resolution dated 26.10.2023 passed by the Managing Committee of The Sherewala Multipurpose Cooperative Agricultural Society Limited, Sherewala to this office.



The report made by the Area Inspector, Cooperative Society is as under:-"By sending a Resolution passed by the Managing Committee of The Sherewala Multipurpose Cooperative Agricultural Society Limited, Sherewala on 26.10.2023, it is requested that Shivraj Singh (under suspension) Salesman of the Society by misusing his powers during the period of his service, has caused loss of Rs. 1353058/- to the Society and by playing cheating with the Society has misused the stock of the Society and used for his personal interests. Therefore, keeping in view the above mentioned Resolution passed by the Society, it is requested to write to Hon'ble S.S.P. Fazilka for registering case against the accused employee Shri Shivraj Singh, Salesman (under suspension)." On the basis of the report received from the above Area Inspector, Cooperative Societies as well as Resolution of the Society dated 26.10.2023, legal action is required to be taken against the Salesman Shivraj Singh (under suspension) of the above Society. Therefore by sending the received report and copy of the Resolution of the above Society, it is requested that against the accused employee of the Society mentioned in the subject above due legal action may be taken and a case may be registered against him. Encl: Copy of the Report of the Inspector, Cooperative Societies and copy of Resolution. Sd/- Assistant Registrar, Cooperative Societies, Abohar. Senior Superintendent of Police, Fazilka No. 1628-SPL-PC dated 22.12.23 Fazilka. DSP/Balluana for N/Action as per law. Sd/- Senior Supdt. of Police Fazilka. S.D. Abohar (Rural), District Fazilka No. 763-PC-ABHR dated 19.09.2024. Subject:- Enquiry report regarding complaint No. 1628-SPL-PC dated 22.12.2023 from Assistant Registrar, Cooperative Societies, Abohar. Sir, regarding the above complaint, the Complainant Party in its complaint has mentioned that Shivraj Singh, Salesman-Respondent of The Sherewala Multipurpose Cooperative Agricultural Society Limited, Sherewala by misusing his powers has caused loss of Rs. 14,53,058/- to the society and by playing cheating with the Society has misused the stock of the Society and used for his personal interests and has demanded to register case against the Respondent Shivraj Singh. For conducting enquiry into the complaint, Karan Kumar Inspector, Cooperative Societies, Khuian Sarwar Focal Point, Assistant Registrar, Cooperative Societies, Circle Abohar was



associated in the enquiry who submitted a copy of his statement in which Karan Kumar has written that he was holding the additional charge of Focal Point Rukanpura from 21.07.2023 to 15.03.2024. The Sherewala Multipurpose Cooperative Agricultural Society Limited, Sherewala is a part of Rukanpura Inspectorate Circle. I was deputed on duty for the physical verification of Rukanpura Focal Point by Hon'ble Assistant Registrar, Cooperative Societies, Abohar vide his letter No. S.A/ARA/1549-52 dated 10.07.2023 from 01.04.2023 to 30.06.2023. In compliance to the above mentioned letter, the undersigned conducted the physical verification of the stock of Urea, D.A.P and N.P.K of The Sherewala Multipurpose Cooperative Agricultural Society Limited, Sherewala. During this physical verification, the above shortage in the stock came to light, which was verified by Shivraj Singh, Salesman (now under Suspension). By taking action on this shortage report, the Managing Committee of the Society passed Resolution NO. 1 (copy enclosed) and suspended Shivraj Singh, Salesman on 25.09.2023 and on completion of the record of the Society, the powers to issue the charge sheet was given to Shri Subhash Chander, President of the Managing Committee. On 25.09.2023 itself, vide Resolution No. 2 (copy enclosed), Shri Jaspinder Singh, Secretary of the Society was directed to complete the record of the Society and compare it with the organizations and Bank concerning to the Society and to make report to the President of the Society so that actual embezzled amount could be known. Thereafter on 29.09.2023, the charge of the stock lying in the Society and Keys of the Godown were received by Jaspinder Singh, Secretary from Shivraj Singh, Salesman (under suspension) in the presence of the undersigned, the receipt of which is enclosed. Jaspinder Singh, Secretary of the Society on 30.09.2023 handed over complete record of the stock of the Society, stock Group Ledger Seed (01.04.2023 to 30.09.2023), Fertilizers (01.04.2023 to 30.09.2023), Pesticides (01.04.2023 to 30.09.2023), Essential Commodities (01.04.2023 to 30.09.2023), (copies enclosed) to the undersigned. On the basis of record produced by the Secretary of the Society and stock available in the Godown (which was given by Shivraj Singh to Jaspinder Singh, Secretary in writing), total shortage of Rs. 1353058/- has come to light in the Society, the detail of which has been entered in the enclosed shortage report. It is



worth mentioning here that the charge of the stock and keys of the Godown were given by Jaspinder Singh to Shivraj Singh on 29.06.2017, the receipt of which is enclosed herewith and thereafter the charge of the stock and keys of the Godown were returned by Shivraj Singh to Jaspinder Singh, Secretary on 29.09.2023 itself. Therefore Shivraj Singh, Salesman (under suspension) has been held to be responsible for the shortage. The Managing Committee of the Society vide its Resolution No. 2 dated 26.10.2023 (copy enclosed), requested the Hon'ble Assistant Registrar, Cooperative Societies, Abohar to write to the Hon'ble Senior Superintendent of Police, Fazilka for getting a case registered against Shivraj Singh responsible for the shortage and on the allegation of misusing the stock for his personal interests by playing cheating with the Society. This statement is submitted to you for suitable action. During enquiry, Respondent Shivraj Singh above mentioned produced his statement who in his statement has written that he has come present in connection with the enquiry of the complaint made by The Sherewala Multipurpose Cooperative Agricultural Society Limited, Sherewala against me in respect of fraud and embezzlement. The allegations leveled against me in the complaint are totally wrong, false and baseless. I have not committed fraud of any kind in the Society nor have I committed embezzlement of any type. False, baseless and concocted facts have been produced and actual facts have been concealed and by misleading the Police Officers, the Complainant Party wants to implicate me in the case of false recovery & embezzlement whereas the actual position is that the Officers of the Society are keeping grudge against me since long. I was appointed as Salesman in the above Society on 30.01.1995 and my service was regularized with effect from 08.01.1997. I was placed under suspension on 29.12.2011. My services were permanently terminated on 19.05.2012. I have pursued the matter continuously with the Department for reinstatement of my service and after hearing my side, I was reinstated in the service. An appeal was filed by me before Deputy Registrar, Cooperative Societies, Faridkot in respect of my promotion. By accepting my appeal by the Hon'ble Appellate Authority, it was decided that the appellant is required to be promoted as Secretary. In this way, the punishment for the negligence committed by the Society cannot be given to the



appellant. A copy of the decision dated 12.04.2023 is hereby produced. I have requested several times to the officers of the Society to make my promotion on the basis of this decision and to give me charge of the said post but they did not hear me. Thereafter on 02.06.2023, a legal notice was sent by me through my Counsel but in spite of the same I was not given the charge of the post of Secretary and I was not allowed to join duty and my due arrear was also not paid. In addition to this, Shri Parpuran Singh, Inspector now A.R. himself conducted checking by coming in the Society. In the checking made by Parpuran Singh, the stock of the Society was found to be Nil against me. At that time charge of the post of Secretary in the Society was given to Jaspinder Singh and in the checking, Jaspinder Singh in his own hand has prepared the account of recovery of Rs. 11,28,767/- and put his signature by accepting himself responsible for this recovery. Even thereafter when Subhash Chander was President of the Society, Jaspinder Singh gave fertilizers to 8-10 landowners without preparing the M.C.L. At that time he was prevented by me from doing so but he said that fertilizer is being given on the asking of Subhash Chander, President. Thereafter information was given by me to Subhash Chander President by visiting his house and in the A.R. Office, Madam Prachi was also informed. On 01.07.2022 myself and Peon of the Society deposited the due amount of recovery in the presence of Shri Parpuran Singh Inspector now A.R and Shri Mandip Singh Bhullar, Inspector now A.R as well as the Bank Manager and the stock was got declared as Nil. After that no balance is due towards me. Whatever transactions have been made, the same have been made by Jaspinder Singh abovementioned and he is responsible for this recovery. On 4.10.2022, Jaspinder Singh by preparing P.B. from the Laptop gave me copy of the same and its P.B was got done with the Inspector in which D.A.P., Urea and N.P.K. and other concerned stock has been shown as Nil against me. But now when the case of my promotion has been revived, instead of giving me charge of the post of Secretary on promotion and paying me Lakhs of Rupees as arrear of my service, the officers of the Society under a well planned conspiracy are giving false complaints against me with an intention to make a case of recovery and embezzlement and efforts are being made to implicate me in a false case. In this connection I have filed



a Civil Writ Petition No. CRWP-20659 of 2023. This petition is pending in the court of Shri Deepak Manchanda Hon'ble Judge of Punjab & Haryana High Court, Chandigarh, in which next date of hearing is 14.02.2025. In this case, I have also made a mention in respect of the recovery shown against me. I am innocent and guiltless. I have seen the statements and record from which it has been found that Shivraj Singh has held the charge of Salesman of Focal Point Rukanpura from 29.05.2017 to 29.09.2023. Hon'ble Assistant Registrar, Cooperative Societies, Abohar vide his letter No. SA/ARA/1549-52 dated 10.07.2023 deputed Inspector Karan Kumar for carrying out physical verification of Rukanpura Focal Point from 01.04.2023 to 30.06.2023. Inspector Karan Kumar carried out the physical verification of the stock of Urea, D.A.P and N.P.K. of The Sherewala Multipurpose Cooperative Agricultural Service Society Limited Sherewala. In this physical verification shortage of huge stock came to light which had been verified by Shivraj Singh Salesman (now under suspension). By taking action on this shortage report by the Managing Committee of the Society on 25.09.2023, Shivraj Singh Salesman was suspended vide its Resolution No. 1 (copy enclosed) and on completion of record of the Society, the powers to issue charge sheet was given to Shri Subhash Chander, President of the Managing Committee of the Society. On 25.09.2023 itself, vide Resolution No. 2 (copy enclosed), Shri Jaspinder Singh, Secretary of the Society was directed to complete the record of the Society and compare it with the organizations and Bank concerning to the Society and to make report to the President of the Society so that actual embezzled amount could be known. Thereafter on 29.09.2023, the charge of the stock lying in the Society and Keys of the Godown were received by Jaspinder Singh, Secretary from Shivraj Singh, Salesman (under suspension) in the presence of the undersigned, the receipt of which is enclosed. Jaspinder Singh, Secretary of the Society on 30.09.2023 handed over complete record of the stock of the Society, stock Group Ledger Seed (01.04.2023 to 30.09.2023), Fertilizers (01.04.2023 to 30.09.2023), Pesticides (01.04.2023 to 30.09.2023), Essential Commodities (01.04.2023 to 30.09.2023), (copies enclosed) to Karan Kumar. On the basis of record produced by the Secretary of the Society and stock available in the Godown (which was given by



Shivraj Singh to Jaspinder Singh, Secretary in writing), total shortage of Rs. 1353058/- has come to light in the Society, the detail of which has been entered in the enclosed shortage report. According to my personal opinion, the charge of the stock the Sherewala Multipurpose Cooperative Agricultural Service Society Limited, Sherewala and keys of the Godown were given by Jaspinder Singh to Shivraj Singh on 29.06.2017, the receipt of which is enclosed herewith and thereafter the charge of the stock and keys of the Godown were returned to Jaspinder Singh, Secretary on 29.09.2023 itself. Therefore Shivraj Singh, Salesman (under suspension) has been held to be responsible for the shortage. If approved then for registration of case against Respondent Shivraj Singh under relevant Sections, opinion of District Attorney (Legal), District Fazilka may be obtained and suitable orders may be given to Station House Officer, Police Station, Bahawwala for registration of a case. Report is submitted. Sd/- (Sukhwinder Singh Brar, PPS), Deputy Superintendent of Police, S.D. Abohar (Rural). Legal Advisor may give legal opinion. Sd/-Senior Superintendent of Police, Fazilka. Legal Opinion No. 192/D.D.A dated 26.11.2024. Subject: Report regarding C/No. 1628-SPL-PC dated 22.12.2023 from Assistant Registrar, Cooperative Societies, Abohar. Sir, I have carefully seen the above complaint and the enquiry report of Deputy Superintendent of Police, Abohar (Rural) and the documents attached therewith. From seeing the same, it has been found that charge of the stock of the Sherewala Multipurpose Cooperative Agricultural Service Society Limited, Sherewala and keys of the Godown were given by Jaspinder Singh to Shivraj Singh on 29.06.2017 (receipt enclosed). Thereafter Shivraj Singh handed over the charge of the stock and returned the keys of the Godown on 29.09.2023 itself to Jaspinder Singh, Secretary. By misusing his powers by Shivraj Singh Respondent Salesman of the Sherewala Multipurpose Cooperative Agricultural Society Limited, Sherewala has caused loss of Rs. 13,53,058/- to the Society and by playing cheating with the Society while misusing the stock of the Society has used it for his personal interests. Therefore Shivraj Singh Salesman is responsible for the shortage. The Enquiry Officer has found the allegations leveled in the complaint as correct. Keeping in view the enquiry report and the directions issued in the Judgment of the



Hon'ble Supreme Court in Lalita Kumar Versus State of Uttar Pradesh etc. dated 12.11.2013, initially offence under Section 316(5) BNS has been made out against the Respondent Shivraj Singh. If agreed, then a case under the above Sections may be registered in the concerned Police Station and further investigation can be made. It is also worth mentioning here that in depth investigation is required to be made in respect of the Role of Jaspinder Singh Secretary of the Society who was also the Supervisor of the Society. Report is submitted for approval. Hon'ble S.S.P. Fazilka. Sd/-(Gurbaz Singh), Deputy District Attorney (Legal), Fazilka. 409-PC/R-SP(H) 04.12.2024. SP(H) FZK for comments pls. Sd/-Senior Supdt. Police, Fazilka. Office of Superintendent of Police Fazilka. To Senior Superintendent of Police Fazilka. No. 409-PC-R/SP(HQ) FZK dated 02.01.2025. Subject:-Report regarding C/No. 1628-SPL-PC dated 22.12.2023 from Assistant Registrar, Cooperative Societies, Abohar. Sir, through the complaint mentioned in the above subject, the Assistant Registrar, Cooperative Societies, Abohar has written that Shivraj Singh, Salesman of Multipurpose Cooperative Agricultural Society Limited, Sherewala by misusing his powers has caused loss of Rs. 13,53,058/- to the Society and by playing cheating with the Society, has misused the stock of the Society for his personal interests upon which through the above complaint, demand has been made to register case against Respondent Shivraj Singh. On marking of this complaint to Deputy Superintendent of Police S.D. Abohar (Rural), enquiry was conducted by him and during enquiry he found Shivraj Singh, Salesman (under suspension) responsible and vide his report No. 763-PC-ABH-R dated 19.09.2024 recommended to take action against Shivraj Singh above mentioned after obtaining opinion from District Attorney (Legal), District Fazilka whereupon above report has been received from Deputy District Attorney (Legal) Fazilka. In Report No. 192/D.D.A dated 26.11.2024, according to the directions issued by the Hon'ble Supreme Court in the Judgment dated 12.11.2013 in case Lalita Kumari Versus State of Uttar Pradesh etc. opinion has been given to take action in respect of the above allegations against Shivraj Singh initially under Sections 316(5) B.N.S. which has been marked to me by you for comments pls. From seeing the report of Deputy Superintendent of Police S.D. Abohar



(Rural) and legal opinion received from Deputy District Attorney (Legal) Fazilka, I have found that Shivraj Singh has held the charge of Salesman of Focal Point Rukanpura from 29.07.2017 to 29.09.2023 and Assistant Registrar, Cooperative Societies, Abohar vide his letter No. SA/ARA/1549-52 dated 10.07.2023 deputed Inspector Karan Kumar for carrying out physical verification of Rukanpura Focal Point from 01.04.2023 to 30.06.2023 and on checking by him shortage of stock of Urea, D.A.P and N.P.K. came to light and by taking action on this shortage report by the Managing Committee of the Society on 25.09.2023, Shivraj Singh Salesman was placed under suspension vide its Resolution No. 1. On the basis of the record produced by the Secretary of the above Society and stock in the Godown, total shortage of Rs.13,53,058/- has come to light. In this matter according to the legal opinion of Deputy District Attorney (Legal), Fazilka, offence under Section 316(5) BNS has been made out. Therefore in my opinion, by registering case against Shivraj Singh, Salesman of Village Sherewala Multipurpose cooperative Agricultural Society Limited, Sherewala under Section 316(5) BNS in the concerned Police Station Bahavwala, further investigation is required to be made. The Report is submitted. Sd/-(Ramnish Kumar Chaudhary, PPS Superintendent of Police (Local) Fazilka. SHO Bahavwala to register the case and investigate the matter. Sd/-Senior Superintendent of Police, Fazilka, Police Station Bahavwala, District Fazilka, No 172:5-A dated 13.02.2025 Police station Bahavwala. Subject: Regarding taking advice regarding orders of approval with regard to Complaint No. 1628-SPL-PC dated 22.12.2023. Sir, it is submitted that on report No. 409-PC-R/SP(HQ) FZK dated 2.1.2025 from the Superintendent of Police (Local) Fazilka in Complaint No. 1628-SPL-PC dated 22.12.2023, the Deputy District Attorney (Legal) Fazilka Shri Gurbaj Singh has given his legal opinion vide No. 192/D.D.A dated 26.11.2024 to register case under Section 316(5) BNS and recommended to carry out further investigation on which the Hon'ble Senior Superintendent of Police, Fazilka has ordered that "SHO Bahav Wala, To register FIR & investigate. At the time of registering the case on the above approval, the occurrence on the CCTNS being before 30.06.2024 time 11.59 P.M (i.e from 29.06.2017 to



29.09.2023) the case could not be registered according to the legal opinion under the new law i.e. Sections of BNS and on CCTNS, it is shown to register case under the Sections of IPC according to the above occurrence. Kindly give advice regarding the above approval for registering the case so that your orders may be complied with strictly. Report is submitted for suitable orders. Sd/- Station House Officer, Bahav Wala dated 13.02.2025. SHO B/Wala. After registering the case under the Sections of IPC, investigation may be conducted. Sd/-Senior Supdt. of Police, Fazilka. Today on receipt of the above enquiry report in the Police Station, as the occurrence being from 29.06.2017 to 29.09.2023, case under Section 409 IPC is registered against Shivraj Singh son of Pippal Singh, resident of Jhurarkhera. Copy of FIR alongwith original enquiry report is handed over to HC Amandip Singh 76/FZK for further investigation. After issuing special reports, the same are sent by hand through SC Mandip Singh 328/FZK to Illaqa Magistrate and senior officers. PCR/FZK is being informed. ”

3. **Contention**
On behalf of the petitioner

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case as the petitioner only was appointed as a salesman in the Sherewala Multi-purpose Cooperative Society Ltd. In fact no money was ever paid to the petitioner by the Company.

Notice of motion.

On behalf of the State

On the asking of the Court, Mr. Jaspal Singh Guru, AAG, Punjab accepts notice on behalf of the respondent-State, who does not controvert the aforesaid facts and could not put forth any incriminating evidence to substantiate the provisions of Section 110 of BNS.

4. **Analysis**

Be that as it may, learned State counsel could not satisfactorily refer to any material as to how the loss to the tune of Rs.13,53,058/- has been assessed and the stock found short by which quantum except laying stress on the fact that it



is the petitioner who has verified the shortage of the stock. It is also to be noticed here that taking note of Regulation 43 which enshrines powers and duties of the Secretary in the Society vide which the duty is bestowed upon the Secretary Jaspinder Singh to prepare all receipts, vouchers and documents required by rules or bye-laws or called for by the Committee. Meaning thereby, he is the custodian of the record and having control of the staff under him. It is further the Managing Committee which is vested with the powers of supervision over the working of the Society through its Secretary and therefore holding the petitioner responsible for the said loss would not be appropriate. It is also to be appreciated as argued by learned counsel for the petitioner that the petitioner is being made scapegoat to save the skin of others who are responsible for the day to day affairs of the Society as the petitioner who is salesman and the junior-most in the hierarchy working as merely an employee on fixed emoluments cannot be expected to cause such a loss. Except verification of the loss by him there is no other connecting evidence available with the prosecution as well. Learned State counsel also could not produce any such material despite asking for by the Court on two occasions for this purpose. There was sufficient time provided to him by granting adjournment on the last date of hearing also but the State has failed to make out a case of custodial interrogation as nothing is to be recovered from the petitioner.

5. **Relief**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to him joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction for the reason that custodial interrogation of the petitioner is not required as it would be of no fruitful purpose to put the petitioner behind the bars. The petitioner shall also abide by the terms and



conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.’

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of one week and comply with the aforesaid condition under Section 482(2) of BNSS, 2023, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

27.03.2025
manoj

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| 1. Whether speaking/ reasoned | : | Yes /No |
| 2. Whether reportable | : | Yes /No |