

CRM-M-60769-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60769-2024
Reserved on: 13.01.2025
Pronounced on: 29.01.2025

Dharampal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. T.S. Grewal, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
602	11.11.2024	City Tohana, District Fatehabad	7(a) of the Seeds Act 1966 and 318(4) of BNS 2023

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 13 of the bail petition, the accused declares that he has no criminal antecedents.

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

“2. That the brief facts of the case are that present case FIR has been registered on the complaint of complainant Mukesh Kumar, Sub-Divisional Agriculture Officer, Tohana. Complainant inter-alia asserted in his complainant that on 11.11.2024, complainant received telephonic information from Labh Singh, the District President, Bhartiya Kisan Union Nain Haryana that government wheat seeds are being unloaded in private shop, upon which, complainant alongwith his staff reached at the spot, where Labh Singh submitted a written complaint before him. It is further alleged in the complaint that on checking, trolley of tractor bearing registration No. HR-18B- 9657 make 'Sonalika', it was found to be containing bags of wheat seeds having written "Haryana Beej Vikas Nigam, Tohana", which he photographed and on counting, 123 bags each

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containing 40 kgs. of wheat seeds of variety DBW- 303 LOT NO.APR-24-07-58-52(1) and 26 bags each containing 40 kgs. of wheat seeds of variety - DBW-332 LOT NO.APR-24-07-58-113 were found. On inquiry, tractor driver disclosed his name as Darshan Singh son of Ajit Singh who told that Dharampal (petitioner-accused), resident of Tohana had got loaded above said bags from sale counter of Haryana Seeds Development Corporation Ltd., Tohana and was asked to unload them in the shop of Kamal situated at Sabji Mandi Road. It is further alleged that neither any bill nor any bilty was produced by Darshan Singh and out of recovered wheat seeds, samples of each variety were drawn for analysis. It is further alleged by the complainant that Dharampal (petitioner-accused) in connivance with officials of Haryana Seeds Development Corporation Ltd. illegally was transporting the abovesaid bags to shop having no valid licence and thereby committed an offence punishable under Section 318(4) BNS, 2023 and Section 7(a) of The Seeds Act, 1966 and he prayed for taking legal action against the petitioner-accused Dharampal and other persons involved in the crime of the present case. On the complaint of complainant, present case FIR No. 602 dated 11.11.2024 was registered u/s 7 of Seeds Act 1966 and 318(4) of BNS 2023 in Police Station City Tohana against the petitioner-accused Dharampal and investigation was carried out.”

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:

“3. That after registration of the present F.I.R, the investigation was further entrusted to SI Rajmal No. 101/Ftb and during investigation, on 11.11.2024 spot memo was prepared and tractor bearing registration No. HR-18B-9657 make 'Sonalika' alongwith trolley containing 149 bags of wheat seeds (each containing 40 kgs. of wheat seeds) having written "Haryana Beej Vikas Nigam, Tohana" were taken into police possession.

x x x x

9. That there are serious allegations against the petitioner-accused Dharampal as in the present case, recovered 149 bags of wheat seeds (each containing 40 kgs. of wheat seeds) having written "Haryana Beej Vikas Nigam, Tohana" from a tractor trolley bearing registration No. HR-

18B-9657 make 'Sonalika' were loaded at the behest of petitioner-accused Dharampal (who is retired employee of Haryana Seed Development Corporation Dagra Road Tohana). Petitioner hired the tractor trolley of Darshan Singh for Rs. 750/- and petitioner also made call to the mobile number 93548-xxxxx of said Darshan Singh from mobile number 99918-xxxxx (used by petitioner).”

7. Given the nature of allegations and the fact that petitioner is first offender, this Court wants to give petitioner one opportunity to course correct and mend his ways and to live like an honest citizen.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. 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.

10. 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 Ilqa 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.

11. 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)	

12. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and

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shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. 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.

14. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

15. 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.

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

17. 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.

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

(ANOOP CHITKARA)
JUDGE

29.01.2025

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Whether speaking/reasoned: Yes

Whether reportable: No.