

CRM-M-65142-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025.PHHC.080620



CRM-M-65142-2024 (O&M)
Date of Decision: 07.07.2025

SUMIT KUMAR

... PETITIONER

VERSUS

STATE OF HARYANA

... RESPONDENT

CORAM : HON'BLE MR. JUSTICE SANJAY VASHISTH

Present:- Mr. Kawalpreet Singh Virk, Advocate for the petitioner.

Mr. S.S.Pannu, Addl. A.G., Haryana.

SANJAY VASHISTH, J.

1. Prayer in this petition, filed under Section 482 of the BNSS, 2023 (earlier Section 438 Cr.P.C.), is for grant of anticipatory bail to the petitioner, who has been booked in a criminal case arising out of First Information Report, as detailed hereunder:-

Name of Petitioner (s)	FIR No.	Date	Section(s)	Police Station	District
Sumit Kumar	397	18.11.2022	379 IPC (Section 409 IPC added later on)	Safidon	Jind

2. On 20.12.2024 following order was passed:-

“The petitioner seeks grant of anticipatory bail in respect of FIR No.397 dated 18.11.2022 registered at Police Station Safidon, District Jind (mentioned as Police Station Sadar Safidon), under Section 379 IPC (Section 409 IPC added later on).

The FIR was lodged on the basis of a written complaint made

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by Mr. Rohtash Dahiya, District Manager, HSWC, Rohtak. The FIR reads as under:

“To SHO Safidon SUB Regarding Lodging of FIR against M/s A.P. Securitas Pvt. Ltd., security service provider for HSWC on account of 3601 bags of HSWC Wheat 2021-22 stocks found numerical short/miss at SWHI Safidon-1 (Ratta Khera Campus). In reference to above cited matter, I am directed to lodge FIR. In this regard, it is informed that Manager SWH Safidon-I has reported vide his Letter No.436 of dated 11.11.2022 (Copy enclosed as Annexure A) about net numerical shortage/ missing of 3601 bags of HSWC Wheat 2021-22 stocks from the Wheat stocks stored at SWH Safidon-1 (Ratta Khera Campus). Prima facie, it seems a commission of criminal offence done by Company As per clause No.3 of terms and condition of agreement (MOU) signed between HSWC and M/s AP Securities Pvt. Ltd. (Copies of agreement are attached as Annexure B), the responsibility of total quantity of stocks (Physical in number) shall be of security agency. The stock can be checked at any time by authorised person of HSWC and if any quantity is found short, the same shall be responsibility of security agency and the recovery shall be made from the service provider. Another enquiries in this regard conducted at various levels are also attached as Annexures C, D, E for your ready reference. In the view of above, you are requested to lodge FIR against above company as well as other person who are involved in this criminal act and in depth investigation is required to reveal the truth offence. So FIR may be lodged under the relevant section of IPC i.e., theft embezzlement cheating and other offence. SD ROHTASH DAHIYA DISTRICT MANAGER HSWC ROHTAK.”

Learned counsel for the petitioner submits that a perusal of the FIR would show that he is nowhere named in the FIR and that the entire allegations are against the security service provider, which was entrusted with the task of ensuring that there is no pilferage of the stocks.

Learned counsel further submits that although the petitioner had remained posted as a Technical Assistant having charge of Manager in the Warehouse situated at Safidon (Ratta Khera Campus), but as a matter of fact he had been transferred from the

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said Warehouse on 30.03.2022 and he also handed over charge to Ms. Manju Rani on 31.03.2022 and that it was a week thereafter that the successor of the petitioner pointed out some shortages in stocks.

It has been submitted that having regard to the fact that the petitioner had relinquished and handed over the charge about one week prior to the incident when the shortage was allegedly noticed and while also bearing in mind that it is prime responsibility of the security agency to take care of the stocks and which has in fact already made good the loss of about Rs.49 lakhs, the petitioner cannot be held responsible for the losses, if any. It has also been submitted that the petitioner otherwise has a clean record and is not involved in any other case.

Notice of motion for 07.07.2025.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 482 of BNSS.”

3. Learned counsel for the petitioner continuing his submissions submits that in compliance of the order dated 20.12.2024 passed by this Court, the petitioner has already joined the investigation, and has fully co-operated. He further submits that the allegations raised by the prosecution can be substantiated through the official record only and the same is either the part of the record or already in possession of Investigating agency. He further submits that petitioner was in-charge of the premises uptill 31.03.2022 and as per the document prepared at the time of handing over and taking over the charge on 31.03.2022, nothing was noticed unsatisfactory (Annexure P-3). He also refers to the list of articles, incorporated in the record of the Haryana State Warehousing Corporation, prepared on 31.03.2022 and points out that in the column of

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‘DIFFERENCE IF ANY’ and **‘REMARKS’** nothing has been mentioned, which in fact, was prepared in the presence of petitioner Sumit Kumar and new incumbent namely Manju Rani. He also points out that the deficiency in the bags/quantity in it was allegedly noticed after a period of one week on leaving of the charge by the petitioner. Whether actually the petitioner is involved or not is to be ascertained by the Court after having evidence before it during the course of trial which is yet to be led by the prosecution. Thus, he, prays for confirmation of the interim anticipatory bail order dated 20.12.2024.

4. Learned State counsel on instructions from ASI Mahender Singh submits that though investigation has been joined by the petitioner but he has failed in fully cooperating with the agency as nothing material has been disclosed by him. However, Mr. Pannu, is unable to dispute the other factual position which has been explained on record by the counsel for the petitioner.

5. Heard learned counsel for the parties.

6. In view of the aforementioned circumstances and the reference from the paper-book made by the counsel for the petitioner, I do not find to issue any direction for petitioner to be subjected for custodial interrogation and, since the petitioner has joined the investigation, accordingly present petition is allowed and ad-interim order dated 20.12.2024, passed by this Court is hereby made absolute.

However, petitioner shall continue to join the investigation as and when required to do so and abide by all the terms and conditions laid down under Section 482(2) of BNSS, 2023.

7. Besides, it is directed that petitioner would hand over his

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passport to the Investigating Agency or to Court concerned, if he possesses. Otherwise, would submit an affidavit, disclosing the fact that he does not possess any passport.

It is also directed that before leaving country any time during trial, petitioner would seek prior permission of the Court.

8. Accordingly, petition stands disposed of.

07.07.2025
Janki

(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No