

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-7894 of 2015

Date of Decision : 07.04.2015

Ajay Raghav

.....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Saurabh Bhardwaj, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. N.S. Shekhawat, Advocate
for respondent no. 2-complainant.

R.P. Nagrath, J. (Oral)

Prayer is made in the instant petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 38 dated 17.03.2012 for offence under Section 409 of Indian Penal Code (IPC), registered at Police Station Bhondsi, District Gurgaon.

The allegations against the petitioner, who was *sarpanch* of the village for five years from 2005 to 2010, were made for mis-utilization/defalcation of funds in connivance with various persons including *panches* and the Government officials.

The enquiry into the matter was conducted by the Additional Deputy Commissioner, Gurgaon and it was found by the Enquiry Officer that a case for recovery of ₹ 63.09 lacs was made out against the petitioner. As per allegations contained in the FIR, the

petitioner was served with a notice for making payment of the amount which he did not deposit and therefore, FIR was registered on the reference made by the Deputy Commissioner, Gurgaon.

I have heard learned counsel for the petitioner, State counsel and counsel for respondent no. 2-complainant.

Learned counsel for the complainant submitted that initially the Government agencies were not taking any action for defalcation of the huge amount for which the complainant and others had to file CWP No. 17011 of 2011, in this Court. During pendency of that petition, an enquiry was held and on the basis of enquiry report, FIR was registered.

It was submitted further that all other persons and certain officials of the Administration have all been exonerated of the serious allegations and challan has been presented only against the petitioner. It was contended that in fact the defalcation runs into crores of rupees for which the details have been mentioned in CRM No. 10138 of 2015 dated 24.03.2015, filed by respondent no. 2-complainant. The defalcations as stated in the application cannot be possibly explained and in fact the investigation has now been entrusted to the Crime Branch of the State Police, which is still pending.

It was urged by learned senior counsel for the petitioner that detailed enquiry was lateron conducted by the Executive Engineer, Public Heath, Engineering Wing. That enquiry report is Annexure P-3. On the basis of said enquiry report, notice dated 12.12.2014 (Annexure P-6) was served upon the petitioner to deposit

an amount of ₹ 41,51,000/-, found to have been mis-utilized by the petitioner. It is contended that initially the petitioner had filed Revision Petition no. 54 of 2012 against the orders of the Deputy Commissioner before the Principal Secretary to Government of Haryana and the prayer of the petitioner was accepted and he was allowed to deposit 50% of the amount of the assessed loss. After the detailed enquiry report, the petitioner deposited rest of the amount on 09.01.2015 vide receipt (Annexure P-7).

Further investigation about the role of different persons and determination of the actual amount of embezzlement/ misappropriation is still under investigation by the Crime Branch.

Having considered the contentions of learned counsel for the parties, I find that no useful purpose would be served for keeping the petitioner in custody anymore as it will take long time in conclusion of the trial. The petitioner is in custody since 08.01.2015. The offence under Section 409 IPC for which FIR was registered, is triable by the Magistrate.

In view of the above and without commenting on the merits of the case, the instant petition is allowed and the petitioner is admitted to bail on his furnishing bail bonds to the satisfaction of the trial Court with two sureties in the like amount.

Allowed in the above terms.

April 07, 2015
jk

(R.P. NAGRATH)
JUDGE