

**IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.**

**CRM-M-37910 of 2015
Date of decision: 25.4.2016**

Ram Gopal Sharma

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Rakesh Dhiman, Advocate
for petitioner Ram Gopal Sharma.

Mr. RS Rai, Sr. Advocate with
Mr. Gauttam Dutt, Advocate,
for petitioner Iftikar Hassan.

Mr. CS Bakhshi, Addl. A.G. Haryana

M.M.S. BEDI, J (ORAL)

This order will dispose of total 30 petitions (the present one
and 29 petitions mentioned below:-

1. CRM-M-38719-2015
2. CRM-M-38721-2015
3. CRM-M-41323-2015
4. CRM-M-41326-2015
5. CRM-M-41391-2015
6. CRM-M-41613-2015
7. CRM-M-41337-2015
8. CRM-M-41272-2015
9. CRM-M-42096-2015
10. CRM-M-41259-2015
11. CRM-M-41327-2015
12. CRM-M-42748-2015
13. CRM-M-422-2016
14. CRM-M-503-2016
15. CRM-M-38657-2015
16. CRM-M-43800-2015
17. CRM-M-43865-2015
18. CRM-M-636-2016
19. CRM-M-463-2016

20. CRM-M-43656-2015
21. CRM-M-38194-2015
22. CRM-M-41508-2015
23. CRM-M-39508-2015
24. CRM-M-40727-2015
25. CRM-M-1091-2016
26. CRM-M-4270-2016
27. CRM-M-43148-2015
28. CRM-M-1307-2016
29. CRM-M-4169-2016

These petitions are filed by Ram Gopal and Iftikar Hassan for pre-arrest bail, who had been ex-Treasurer and ex-President, respectively, of Saraswati Kunj Co-operative Society Wazirabad, Gurgaon (for short 'the Society'). Petitioner Ram Gopal Sharma is accused in 16 FIRs, whereas petitioner Iftikar Hassan has been booked in 19 cases on the allegations that in the year 2003 they misappropriated the amount paid by the complainants in different FIRs for the purchase of plots by fraudulently executing the sale deeds qua some plots in the names of multiple persons as benami transactions. In all the FIRs almost similar type of allegations have been levelled.

The petitioners being involved in so many cases, as a general practice, can not be granted the concession of pre-arrest bail but after hearing counsel for the parties, it transpires that all the complainants/aggrieved persons had filed a writ petition i.e. CWP No. 96882 of 2008 seeking issuance of a writ in the nature of certiorari and mandamus for directing the petitioners and authorities under the Haryana Co-operative Societies Act (for short the Act) to hand over possessions of the plots to them and to get the plots registered in the names of the allottees. The said writ petition was disposed of on 18.11.2008 by a Division Bench of this

Court, relegating the said claimants to avail the legal remedy available u/s 102 of the Act.

A perusal of the police file also indicates that the amount, which is alleged to have been paid by the complainants, stands deposited in the account of Society. There does not appear to be any allegation regarding misappropriation of the amount paid by the complainants. With the assistance of learned State counsel and Inspector Daya Nand, I have perused the police file, which indicates that it will certainly be a debatable issue whether there exists any documentary evidence regarding misappropriation or embezzlement of the amount paid by the complainants or the said amount has not been deposited in the accounts of the Society.

During the course of arguments and on perusal of the record, it transpires that few of the complainants have also sought the legal remedy for enforcement of their rights qua the Society and State authorities for seeking possession of the plots.

Taking into consideration the totality of the circumstances, it appears that the complainants have already taken steps for enforcement of their legal rights and their claims being pending before the authorities under the Act, the custodial interrogation of the petitioners does not appear to be necessary in view of the fact that the petitioners have already joined the investigation, pursuant to the interim orders passed by this Court.

Accordingly, all the 30 petitions are allowed and it is ordered that in case of arrest of the petitioners, they will be released on bail to the satisfaction of the arresting officer subject to the following conditions:-

- 1) The petitioners will not make any attempt to tamper with the evidence or the records of the Society in any manner.
- 2) The petitioners will join the investigation as and when required by the investigating officer by sending an advance notice of at least 7 days in a particular FIR indicating the purpose for which the petitioners are required to join the investigation.
- 3) The petitioners will not leave India without the permission of the Court.
- 4) The petitioners will intimate the investigating officer in case they change their present place of residence and shift at an address, other than the one given in the memo of parties.

April 25 ,2016
harsha

(M.M.S.BEDI)
JUDGE