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

CRM-M No.38009 of 2016

Date of Decision: 21.02.2017

JEET KAUR

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. G.S. Punia, Sr. Advocate with
Ms. Harveen Kaur, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, D.A.G., Haryana.

Mr. Deepak Sharma, Advocate
for the complainant.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner seeks grant of anticipatory bail in case bearing FIR No.12 dated 02.03.2016, registered under Section 409 IPC at P.S. Naggal, District Ambala.

[2]. The allegations against the petitioner are that she had kept cash in hand beyond the permissible limits and has also misappropriated the panchayat fund. The total amount of government funds to the tune of Rs.16,72,182/- as cash in hand was alleged.

[3]. The office of BDPO, Ambala vide letter No.5068 dated 12.10.2015 and letter No.6021 dated 16.10.2015 issued notice to the petitioner calling her to explain her stand.

[4]. The petitioner-Sarpanch admitted the amount kept by her and also utilization of the same towards developmental work viz. repair of hand pump, submersible, bore and construction of tubewell etc. in the village. It has been alleged that the work was done after passing of the resolution by the Panchayat.

[5]. Evidently Section 53 of the Haryana Panchayati Raj Act, 1994 (hereinafter to be referred as 'the Act') deals with the liability of the Sarpanch in the context of loss, waste or misappropriation of panchayat fund. A complete mechanism has been provided for recovery of such amount after issuing notice, to the Sarpanch or the Panch. Right of appeal has also been provided under Section 53(3) of the Act.

[6]. *Suo motu* powers of the Government are also prescribed under Section 53(4) of the Act. Further in terms of Section 204 of the Act, bar of action has been provided to the effect that no suit or other proceedings civil or criminal shall lie against Sarpanch or Panch, Member, Chairman, Vice-Chairman, President, Vice-President as the case may be, if the act is done in good faith under the Act.

[7]. At this juncture, it would be debatable issue as to

whether the acts done by the petitioner were in discharge of her public duty?

[8]. Vide order dated 24.10.2016, ad interim protection was granted to the petitioner subject to her joining the investigation. On 18.01.2017, it was asserted by the State counsel duly assisted by learned counsel for the complainant that the petitioner has not joined the investigation.

[9]. Today learned State counsel in assistance with learned counsel for the complainant stated that the petitioner has not facilitated the recovery of the amount.

[10]. At this juncture, keeping in view the provisions under the Act and the attribution *qua* the petitioner, it would be just and appropriate to make the interim orders dated 24.10.2010 and 18.01.2017 absolute. Ordered accordingly. Petition stands disposed of.

February 21, 2017

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No