

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

**CRM-M No.6722 of 2017(O&M)
Date of Decision: 28.03.2017**

Smt. Sharmila Devi

.....Petitioner

Versus

State of Haryana and another

... Respondents

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

Present:Mr. O.P. Goyal, Senior Advocate with
Ms. Shallie Mahajan, Advocate
for the petitioner.

Ms. Gagandeep Kaur, AAG, Haryana.

Mr. Mukesh Yadav, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks anticipatory bail in case bearing FIR No.509 dated 25.11.2016 registered under Sections 120B, 406, 409, 420 IPC at Police Station Mahendergarh, District Mahendergarh.

[2]. The FIR was registered against the petitioner for issuing fake receipts of Panchayat shops and embezzlement of the amount so received.

[3]. Learned Senior counsel for the petitioner submitted that 147 shops were constructed by the Gram Panchayat. Petitioner was elected for the post of Sarpanch in July 2010. 42 shops were constructed during the tenure of previous Sarpanch Ved Pal. 33 shops were constructed during the tenure of the

petitioner. In respect of shops constructed during the tenure of the petitioner, she received security amount from the allottees and the allegation has been made that the petitioner has embezzled an amount of Rs.56,83,000/-. The record for the period from July 2010 to September 2013 was destroyed and FIR No.389 dated 07.09.2013 was got registered to that effect. The Police has filed untraced report in the said FIR and therefore, nothing can be attributed to the petitioner. The record for the year September 2013 to July 2015 was handed over to the present Sarpanch. An audit was done in respect of Panchayat funds. Total amount of Rs.52 lacs was deposited in the Panchayat account vide three FDRs. Out of aforesaid total amount, an amount of Rs.16,79,851/- is shown to have been withdrawn by the petitioner without approval of the Government. This fact has been noticed in the audit report. The remaining amount was spent by the Sarpanch.

[4]. Learned Senior counsel further submitted that an amount of Rs.1,42,79,681/- is shown to have been spent as per entry dated 11/12 towards construction of the shops which was received as grant from the office of DRDO, Narnaul. Further as per record, an amount of Rs.16 lacs is outstanding as arrears of security of Rs.2 lacs each for the new shops at serial No.7 to 14 constructed by the Gram Panchayat as on 31.03.2014. The

matter was brought to the notice of Deputy Commissioner and other authorities to look into the matter and recover the outstanding dues from the lessees with interest. The names of the lessees were also disclosed as Ram Niwas, Vikram, Harpal, Jitender and Urmila Yadav. As per amount spent on the construction, the alleged non-verification of muster roll was sought to be explained by showing that different amounts were spent on different assignments of repair, filled earthwork, repair of gali, water tank, construction of Panchayat shops, sports ground, boundary wall and road etc. upto 26.03.2014. The aforesaid constructions towards different items started w.e.f 18.08.2010. The different amount spent on different assignments was sought to be explained as per entries made in the audit report under the head Irregularities in purchases/payments.

[5]. By referring to para No.6 of the status report, learned Senior counsel contended that no *prima facie* embezzlement has been recorded and the allegation cannot be alleged to be conclusive in nature. The joining of investigation by the petitioner would make her entitle for the benefit of anticipatory bail.

[6]. On the other hand, learned State counsel duly assisted by learned counsel for the complainant vehemently submitted

that the petitioner has embezzled huge amount of the Panchayat funds. The amount received as grant was an amount different than the amount received from the lessees which was never deposited by the petitioner in the Panchayat account. A person named Suresh once sought to get information through RTI in respect of the amount embezzled by the petitioner as well as qua record of the Panchayat, the said person was killed by husband of the petitioner. The husband of the petitioner has been convicted and sentenced for murder of aforesaid person.

[7]. According to learned State counsel and learned counsel for the complainant, the intensity of allegation is such that the family of the petitioner can face any consequence in the event of unveiling the curtain. By referring to number of receipts in favour of different lessees, learned State counsel contended that huge amount has been swallowed by the petitioner and whole of the Panchayat record was not made available to the new incumbent. Amount has not been recovered so far. Since the petitioner has not cooperated in the investigation, therefore, custodial interrogation of the petitioner is required for intensive interrogation as the petitioner has evaded to give true description of the amount so embezzled by her, rather fake receipts have been issued to the lessees. Even as per different FDRs deposited in the Panchayat fund, an amount of

Rs.16,79,851/- was withdrawn by the petitioner without approval of the Government by way of getting the FD No.QP36 dated 23.10.2013 transferred to Punjab National Bank account No.242083 without approval of the Government. Rs.17,00,000/- i.e. FDs amount was utilized before the date of maturity on 08.02.2014 and therefore, loss to the extent of Rs.20,149/- was also caused to the Gram Panchayat. The facts emerging from the data report in addition to the loss of Panchayat record from the year 2010 to 2013 are the incriminating facts which need to be established by way of proper interrogation of the petitioner.

[8]. At this stage, without forming any conclusive opinion on the complicity of the petitioner or otherwise, I do not feel that any case for grant of anticipatory bail is made out in favour of the petitioner. Facts are required to be established by way of proper investigation for which custodial interrogation of the petitioner is required.

[9]. Dismissed.

(RAJ MOHAN SINGH)
JUDGE

28.03.2017
prince

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No