

CRM-M-44737-2017

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

CRM-M-44737-2017

Date of Decision: 30th January, 2018

Jaswinder Singh

...Petitioner

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.S. Rai, Senior Advocate with
Ms. Ribuna, Advocate
for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

Mr. M.K. Dhot, Advocate
for the complainant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail by filing this petition under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.220, dated 13.10.2014, registered at Police Station Sohana, District Mohali, under Sections 420, 409, 465, 467, 468, 471, 167 and 120-B of the Indian Penal Code, as he is in custody since 30.03.2017 for the allegations of embezzlement to the tune of Rs.12.81 Crores. Challan was also presented against him and another co-accused, however, a supplementary challan has been presented now, wherein, it has come that the embezzlement was done during the tenure of the complainant as President of the society.

Learned Senior counsel for the petitioner, in the light of the

subsequent supplementary challan and the order passed by the trial Court on submission of the supplementary challan dated 22.12.2017, which has been produced in Court, contends that the petitioner, who is the only person in custody as of now and all other co-accused have been granted the concession of bail, he may also be granted the said concession.

Counsel for the State, on instructions from ASI Naib Singh, Police Station Sohana, District Mohali, submits that the supplementary challan stands filed and that the challan having been filed, the charges till date have not been framed. He further contends that in the light of the fact that the name of the petitioner specifically mentioned in the FIR and there are specific allegations against him, the concession of regular bail may not be granted to him as huge amount has been embezzled by him.

Counsel for the complainant vehemently opposes the prayer for grant of regular bail. He contends that on the submission of the supplementary challan, the petitioner had moved an application for his discharge which application has been dismissed by the trial Court, which indicates the involvement of the petitioner in the embezzlement and the allegations cannot be just brushed aside because of the supplementary challan having been presented. He, therefore, prays for dismissal of the present petition.

I have considered the submissions of the counsel for the parties and keeping in view the fact that earlier challan has been presented, which did contain certain allegations against the petitioner and therefore, the discharge application, on submission of the supplementary challan, by the

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petitioner having been considered and rejected by the trial Court, indicates that the petitioner is to face trial. However, it cannot be lost sight of the fact that in the supplementary challan, which has been filed, the allegations against the petitioner to a great extent have been diluted keeping in view the finding recorded in the supplementary challan by the Special Investigating Team, which was constituted. The petitioner is in custody since 30.03.2017. The challan stands presented, however, the charges have not been framed and keeping in view the order dated 22.12.2017 passed by the Chief Judicial Magistrate, SAS Nagar (Mohali), it does not appear that the trial would commence at an early date, what to say of conclude. Since no recovery has been effected from the petitioner, continuance of the petitioner in custody is not essential.

In view of the above, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, SAS Nagar (Mohali).

(AUGUSTINE GEORGE MASIH)
JUDGE

30th January, 2018
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No