

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 8464 of 2018 (O&M)

Date of decision : 9.3.2018

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Durga Devi

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Neeraj Gupta, Advocate for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

Mr. N.S. Shekhawat, Advocate for the complainant.

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H. S. Madaan, J.

This petition for pre-arrest bail has been filed by petitioner Durga Devi an accused in FIR No. 25 dated 31.1.2018, for offences under Sections 120-B/409 IPC, registered at Police Station Bhondsi, District Gurugram.

Briefly stated, facts of the case, as per prosecution story are that on a complaint having been filed by the inhabitants of the village against Durga Devi etc., under Sections 420, 467, 468, 471, 120-B IPC read with Sections 7, 9, 10, 12, 13 of the Prevention of

Corruption Act, in the Court of Judicial Magistrate Ist Class, Sohna, Gurugram, learned Magistrate, exercising the powers under Section 156 (3) Cr.P.C. sent the same to the Police Station concerned, for registration of the FIR. It was alleged in the complaint that the present petitioner Durga Devi being Sarpanch of village Bhondsi, had dishonestly disposed of the property belonging to village Gram Panchayat measuring 12 Kanal and 12 Marlas, to Krishna Kumari @ Krishna and her daughter Usha Rajput that a site plan was got prepared on which the petitioner – Durga Devi wrongly endorsed that property shown in the site plan is within Red Line (Lal Dora) of Abadi of village Bhondsi; that Patwari Halqa had also done so. A transfer deed dated 13.1.2017 was registered in the office of Sub Registrar office Sohana. According to the allegations, false documents were prepared to facilitate the transfer of property of Gram Panchayat to Krishna Kumari @ Krishna, who in turn transferred it to her daughter Usha Rajput. In that way, a loss of more than Rs. 3 crores was caused to the Gram Panchayat. The loss is still higher if the market value of the property is assessed, which comes out to be more than Rs. 6 crores.

When the matter was brought to the notice of Deputy Commissioner, the petitioner was placed under suspension as Sarpanch. In that way, the petitioner is accused of offences of cheating and fabrication of documents, misusing forged documents as genuine and transferring the property belonging to Gram Panchayat without any authorization, causing loss running into crores of rupees to the Gram Panchayat.

Apprehending her arrest Durga Devi had approached the Court of Sessions for grant of pre-arrest bail. However her such request was declined by the Additional Sessions Judge, Gurugram, vide order dated 15.2.2018, as such she has knocked at the door of this Court craving for grant of that very relief. However, learned State counsel is opposing such prayer vehemently.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

The pre-arrest bail is a discretionary relief, which is to be granted by the Court very sparingly and not in routine. The pre-arrest bail is given to a person who appears to be innocent to avoid harassment and inconvenience to him and not to enable the criminals to avoid custodial interrogation. Admittedly, as observed in authority ***State represented by the CBI vs. Anil Sharma, 1997 (4) RCR (Criminal) 268,*** custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful information.

The custodial interrogation of the petitioner is required for complete and effective investigation, so as to find out as to under what circumstances she had transferred the property belonging to the Gram Panchayat without any authorization and prepared false documents by making endorsement on the site plan that the area was within Red Line of the village. It is also to be found out as to who are the other persons involved in the crime, role played by each one of them. If the custodial interrogation is denied to the Investigating

Agency, that shall adversely effect the investigation, which is uncalled for.

Therefore, finding no merit in the petition, the same stands dismissed.

9.3.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes/ No
Whether reportable	Yes/ No