

213

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

**CRM-M No.51055 of 2019
Date of Decision: 27.02.2020**

Jai Parkash

.....Petitioner

Vs

State of Haryana

.....Respondent

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

Present: Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.31 dated 28.02.2018 registered under Sections 120-B, 409, 420, 468, 471 IPC (Sections 419, 467 IPC added later on) at Police Station Loharu, District Bhiwani.

Petitioner is a salesman. Allegations are that the petitioner has embezzled the amount of Dhigawa Primary Agricultural Co-operative Society while working as a salesman at Digawan, Prathmik Krishi Sehkari Samiti by wrongly filling

more amount in cheque book of the Samiti members and by doing overwriting in the receipt book. Further allegations are that wrong entries were made in the sales of fertilizers in the names of members and unauthorized sales were shown, thereby misappropriating huge amount.

Learned counsel for the petitioner submits that during departmental inquiry, the petitioner has named other employees viz. Branch Managers, Loan Officers and Cashiers of the Society in the act of embezzlement of the amount. A joint inquiry committee was constituted. In the report submitted by the committee, it has been observed that the petitioner alone cannot do embezzlement of such a large amount in the absence of overt-act by other officials of the Society. In fact at the instance of the petitioner, Sajjan Kumar, Manager, Ram Avtar Manager, Hawa Singh, Manager, Ramesh Kumar Poonia, Manager, Ishwar Manager, Jai Singh Manager, Dharampal, Cashier and Ashok Kumar, Cashier were nominated in the present case. Out of the aforesaid persons, Ramesh Kumar Poonia and Ishwar Singh have already died. Ashok has been granted bail by this Court in CRM-M No.53234 of 2019 vide order dated 31.01.2020.

Learned State counsel on instructions from ASI Jitender Singh could not differentiate the role of the petitioner as he

alone was not competent to do the act of embezzlement in the absence of overt-act by others.

Salesman is having defined duties. Once the cashier has been granted regular bail by this Court, the question of declining the prayer for bail on parity to the petitioner could not be justified. After filing of the challan, the charges have been framed, but no witness has been examined so far. The offences are triable by the Magistrate.

Vide order dated 19.10.2019, the trial Court fixed the case for 16.11.2019 for evidence of the prosecution. As per requirement of Section 437(6) Cr.P.C, if the offence is triable by the Magistrate, and the trial of the case is not concluded within 60 days from the date fixed for taking evidence, then the accused is entitled to bail unless for the reasons to be recorded in writing for declining such a prayer.

Taking into consideration the totality of facts and circumstances of the case, at this stage, without meaning anything on merits of the case, the petitioner is directed to be released on regular bail subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

Nothing expressed hereinabove, would be construed to

be an expression of any opinion on merits of the case.

27.02.2020
Prince

(RAJ MOHAN SINGH)
JUDGE

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