

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

CRM-M-27440-2021

Date of Decision: 14th October, 2021

Jamshed

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Munfaid Khan, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana for the respondent-State.

Mr. Mazlish Khan, Advocate for the complainant.

AVNEESH JHINGAN , J.(Oral)

Due to COVID-19 situation, the Court is convened through video conference.

This petition under Section 438 Cr.P.C. is filed for anticipatory bail in FIR No. 179 dated 03.04.2019 under Sections 406, 409, 420, 467, 468 and 120-B IPC registered at Police Station Sadar Tauru, District Nuh.

The FIR was registered at the instance of complainant- Mohd. Yusuf against Amit Kumar BDPO and Jamshed Ex-Sarpanch of village Raniyaki-petitioner. The allegations were that the petitioner forged class 10th mark sheet for contesting the election of the Sarpanch. Further that petitioner in connivance with co-accused Amit Kumar embezzled

Rs.1,60,70,000/- by withdrawing the money from the fixed deposit of Gram Panchayat. The matter was inquired into by the SDM and finding substance in allegations, the FIR was registered.

Learned counsel for the petitioner submits that earlier a complaint was made regarding forged certificate of class 10th and in the said complaint petitioner is on bail. The contention is that the alleged embezzled money was used for development of the village. It is further argued that petitioner was suspended from the post of Sarpanch on 6th July, 2018. The order of suspension was challenged in the High Court and stay was granted. The submission is that against the notice issued by the department for recovery of amount of Rs. 1,60,70,000/-. Suit for permanent injunction is pending. The recovery of the amount was stayed.

Learned State counsel opposes the prayer for grant of anticipatory bail. She submits that from day one petitioner is avoiding to hand over the original record. An inquiry was initiated by the SDM, in spite of giving repeated opportunities petitioner neither joined the inquiry nor deposited the original record. The submission is that co-accused was arrested, there is sufficient material against the petitioner and the custodial interrogation is required to unearth the modus operandi adopted for embezzlement of amount of more than one crore sixty lacs. She relies upon the pleadings of the reply to submit that co-accused Amit Kumar denied his signature on the letter relied upon by the petitioner for pre-mature withdrawal of fixed deposits. She further submits that during the investigation it is revealed that amounts on various dates were withdrawn by the petitioner from the account of Gram Panchayat.

Learned counsel for the complainant opposes the grant of bail.

The allegations in the FIR are of embezzlement of public

money that too at the grass root level of the democracy. The tone and tenor of the allegations is of an economic offence.

In *Y.S. Jagan Mohan Reddy Versus CBI (2013) 7 SCC 439*, the Supreme Court held as under:-

“34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.”

There was a premature withdrawal from the FDRs of the Gram Panchayat on the basis of an alleged forged letter. The matter is still under investigation, a deeper probe is required as in such activities there is a well advised web knitted to syphon off the money. The original record is contended to be with the petitioner.

The interim protection granted in the civil suit or in the writ petition challenging the suspension order, *ipso facto* does not bar the criminal proceedings for the offence of embezzlement of the amount. No ground is made out of anticipatory bail.

Dismissed.

However, it is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

**(AVNEESH JHINGAN)
JUDGE**

14th October, 2021

Parveen Sharma