

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

CRM-M No. 40855 of 2020

Date of decision: November 30, 2021

Rajpal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. G.P.S. Bal, Advocate for the petitioner.

Mr. Rohit Arya, DAG Haryana.

(Presence marked through video conferencing).

ARUN MONGA, J. (ORAL)

This is second foray of petitioner before this court, seeking regular bail in FIR No.0393 dated 17.06.2020, registered under Sections 409 IPC (Sections 120-B, 420, 467, 468, 471, 477, 477-A IPC added later on) at Police Station Sadar Hisar, District Hisar, having got the first petition dismissed as withdrawn on 28.10.2020.

2. Brief facts of the prosecution case are that the petitioner embezzled a sum of Rs.6,83,000/- from the panchayat funds and did not hand over the entire record of the Acting Sarpanch after his suspension.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. Pursuant to order dated 16.12.2020, petitioner had deposited Rs.6,83,000/- by way of Demand Draft without prejudice to his rights and is on interim bail since then. He submits that petitioner has not misused the said concession.

4. Per contra, learned State counsel opposes the bail plea and submits that the antecedents of the petitioner do not inspire any confidence and he seems to be a habitual offender. He further submits that the petitioner was also held guilty in one case bearing FIR No.106 dated 23.5.2005, registered under Sections 506, 34 IPC at Police Station Meham.

5. I have heard the rival contentions of the respective learned counsels.

6. Perusal of the status report by way of affidavit dated 18.11.2021 of Deputy Superintendent of Police, Headquarters, Hisar, wherein, copy of the final judgment in the criminal proceedings arising out of FIR No.106 (supra) has been appended would reveal that the learned Sub Divisional Judicial Magistrate, Meham took a lenient view *qua* the petitioner and merely imposed fine of Rs.1,000/- plus imprisonment till rising of the Court.

7. Vide order dated 24.03.2021, it was observed that in case, the petitioner is convicted in any other case, he shall not be entitled to any concession of bail. The petitioner was though, held guilty under Section 506, 34 of IPC, but he was let off by imposition of Rs.1,000/- as fine and therefore, I am of the view that reason of earlier non-grant of bail does not really survive. Petitioner is already on interim bail.

8. The contentions of learned counsel for petitioner, as noted aforesaid, may have substance but same can only be adjudged at the trial. However, the trial is not likely to conclude soon in view of the situation arisen due to pandemic. Further investigation is already over. Report under section 173(8) of Cr. P.C. has already been submitted against the petitioner and the case before the trial court is now fixed for consideration of charges for 01.12.2021.

9. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in preventive custody.

10. Accordingly, order dated 16.12.2020 granting interim bail to the petitioner is made absolute and the petitioner is ordered to be released on bail on his furnishing fresh bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Magistrate, as the case may be.

(ARUN MONGA)
JUDGE

November 30, 2021
mahavir

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No