

CRM-M-44436-2021

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

**CRM-M-44436-2021
Date of decision: 27.04.2022**

Somi Sidhu

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sartej Singh Narula, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case bearing FIR No.182 dated 15.09.2020, registered at Police Station Babain, District Kurukshetra, under Sections 409 and 420 IPC and Sections 120-B and 201 IPC (added later on).

Status report dated 26.04.2022, by way of affidavit of the Superintendent of Police, Kurukshetra, filed in the Court today, is taken on record.

Learned counsel for the petitioner contends that the petitioner was posted as Gram Sachiv; that as per the inquiry conducted by SDO (Civil) Ladwa, the petitioner alongwith co-accused Seema Devi, Sarpanch (declared a proclaimed offender on 09.09.2021) and her brother Kuldeep had embezzled the amount of Rs.24,41,336/-, but as per the statement of Seema Devi, recorded before the BDPO, the embezzled amount was to the

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tune of Rs.32,54,646/-. Besides this, there are allegations against the petitioner that he had not handed over the account books.

Learned counsel further contends that Seema Devi got her statement recorded on 19.09.2019, vide resolution (Annexure P-2), to the effect that account books and all other record were in her possession. He further contends that vide letter dated 24.09.2019 written by Seema Devi to the Block Development and Pachayat Officer, Ladwa, it was stated that she would produce the record of the Panchayat and the amount withdrawn from the panchayat funds and others schemes without quorum, would be deposited back by 26.09.2019. Still further, vide letter (Annexure P-6) written by Seema Devi to the Block Development and Panchayat Officer, Ladwa, it was stated that the entire record had been handed over to the petitioner. There are contradictory statements given by co-accused, Seema Devi on different occasions, who has been declared a proclaimed offender. Even as per the Haryana Panchayati Raj Act, 1994, Sarpanch is the custodian of the account books. The petitioner has been in custody since 27.05.2021. All the offences are triable by the Judicial Magistrate Ist Class.

On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioner, submits that the petitioner and co-accused, Seema Devi convened a meeting without issuing agenda and withdrawn the amount in lack of quorum of Panchayat. The relevant record was with the petitioner, who had not handed over the same to the prosecution agency. The cheques duly signed by the petitioner and co-accused, Seema Devi, were handed over to co-accused, Kuldeep, who

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had withdrawn the amount and thereby, the accused had caused a loss to the government exchequer.

I have heard the learned counsel for the parties.

No recovery of account books had been effected from the petitioner. Even as per the statement of co-accused Seema Devi recorded on 19.09.2019, vide resolution (Annexure P-2), the account books and all other record were in her possession. Moreover, as per Section 18 of the Haryana Panchayati Raj Act, Sarpanch is the custodian of the record of the Gram Panchayat.

In the present case, the petitioner has been in custody for the last more than 11 months. Out of 20 prosecution witnesses, none of the prosecution witnesses has been examined so far. All the offences are triable by the Judicial Magistrate Ist Class. Trial is unlikely to conclude any time soon. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

27.04.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No