

CRM-2682-2023 in/and
CRM-M-84-2023

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

CRM-2682-2023 in/and
CRM-M-84-2023
Date of Decision: 23.01.2023

Devi Lal

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Harinder Singh Aujla, Advocate
for the applicant/petitioner.

Mr. Ram K.Singla, DAG, Haryana.

HARSH BUNGER J. (ORAL)

CRM-2682-2023:

Present application is filed for placing on record order dated 12.07.2022, passed in CRM-M-26420-2022, and 01.06.2022, passed in CRM-M-24697-2022, as Annexures A-1 and A-2, respectively.

For the reasons mentioned in the application, orders dated 12.07.2022 (Annexure A-1) and 01.06.2022 (Annexure A-2), passed by a co-ordinate Bench of this Court in CRM-M-26420-2022 and CRM-M-24697-2022, respectively, are taken on record, subject to all just exceptions.

Application is accordingly disposed of.

CRM-M-84-2023:

Present petition is filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.443 dated 05.12.2021

(Annexure P-1), under Sections 409 and 420 IPC, registered at Police Station Sadar Fatehabad, District Fatehabad.

The FIR in question was registered on the basis of enquiry report sent by the Assistant Registrar, Co-operative Societies, Fatehabad, alleging that on 31.03.2020, at the time of audit of stock of fertilizers, stock was found less and seller (Mukhraj) of Birabadi Fertilizers Sale Center was found to have embezzled fertilizers to the tune of Rs.25,51,247/- whereas seller (Devi Lal-petitioner herein) of Hanspur Fertilizers Sale Centre was found to have embezzled fertilizers to the tune of Rs.1,93,35,472/-, hence causing total loss of Rs.2,18,86,719/- to Co-operative Society.

Learned counsel for the petitioner submits that the petitioner joined the services of Hanspur PACS as Salesman in the year 1988. Later on, he was promoted to the post of Manager in the year 2018, whereupon he took charge as Manager at Hanspur PACS from his predecessor-Harpal Singh (co-accused) on 18.10.2018. Said Harpal Singh was Manager at Hanspur PACS from the year 2015 to 18.10.2018 and when the charge was handed over to petitioner, there was already a huge difference between the stock shown in the stock register and physical stock available with the society, which discrepancy was also brought to the notice of Harpal Singh as well as superior officers in the Co-operative Department, by the petitioner, however no action was taken against said Harpal Singh at that time. It is submitted by learned counsel that Harpal Singh is the sole culprit in the instant case and the amount of difference in the stock is wrongly being attributed to the petitioner. It is further submitted that the amount, which is alleged to have been embezzled by the petitioner, is in fact done by his predecessor Harpal Singh and his other colleagues at Hanspur PACS,

which fact can be clarified by perusing the inquiry report dated 09.05.2022 (Annexure P-2), sent by the Manager, Faridabad Cooperative Society, whereby it was found that Harpal Singh had committed scam to the tune of Rs.2,20,26,314/- at the Hanspur PACS. It is thus contended that real culprit in the case is Harpal Singh and the petitioner has been falsely implicated. It is submitted that the petitioner is in custody since 27.04.2022. Learned counsel submits that the investigation of the case is complete, challan has been presented on 28.06.2022 and even charges have been framed on 04.10.2022. Learned counsel further submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

Custody Certificate dated 21.01.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offences. However, learned State counsel does not dispute the fact that challan has been presented in the present case on 28.06.2022 and even charges have been framed on 04.10.2022. It is also not disputed that as per custody certificate, the total custody of petitioner is eight months and twenty one days as on 21.01.2023.

I have heard learned counsel for the parties and perused the paper book as well as the custody certificate of petitioner, handed over by learned State counsel, in Court today.

As per custody certificate dated 21.01.2023, the petitioner has

undergone eight months and twenty one days of custody. The investigation

in the matter is complete and the challan stands presented on 28.06.2022 and even charges have been framed on 04.10.2022. The trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind bars.

Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing heavy bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case and any change in the address shall also be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity.

Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

The petition is accordingly disposed of.

23.01.2023
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No