

**221 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.49121 of 2023 (O&M)****Date of decision : 30.01.2024**

Nirod Kumar Rout @ Lipu Rout

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN*******

Present :- Mr. Vimal Kumar Gupta, Advocate
for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

Mr. Vikas Mohan Gupta, Advocate
for the complainant.

*********PANKAJ JAIN, J. (ORAL)**

1 This petition has been filed under Section 439 Cr.P.C. for grant of regular bail in case F.I.R. No.171 dated 29.08.2021 registered under Section 409 IPC (offence under Sections 467/468/471/120-B IPC added later on), at Police Station Sector-65, Gurugram.

2 As per allegation levelled in the FIR the case against the petitioner is that he while working as Executive (Accounts) in the BIBA Apparels Pvt. Ltd. Company embezzled huge amount of Rs.83.16 lacs (which, as per the complainant, during the investigation swelled to Rs.3,14,62,238/-). The *modus-operandi* of the petitioner was that he used to transfer the amounts from the account of the company in two bank accounts held by his near ones. The said amount was withdrawn and misappropriated by him.

3 Learned counsel for the petitioner submits that the petitioner is behind bars for more than 11 months & 25 days and has no criminal antecedents. The petitioner resigned from the company on 03.03.2021 and has been falsely implicated thereafter. It is a Magisterial trial wherein the most material witness i.e. complainant stands examined. The case is entirely based upon the documentary evidence thus there cannot be any apprehension that the petitioner would tamper with the evidence.

4 *Per contra* Mr. Vikas Mohan Gupta, Advocate for the complainant along with Mr. Ashok Kumar Sehrawat, DAG, Haryana has opposed the bail plea of the petitioner submitting that serious allegations are levelled against the petitioner of misappropriating crores of rupees, while acting as an employee of the company and thus he does not deserve concession of bail. They further submit that still 11 witnesses remain to be examined and thus it cannot be said that there can't be any apprehension that the petitioner shall not tamper with the evidence.

5 Custody certificate has been filed. The same is taken on record. As per the custody certificate, the petitioner by now has undergone more than 11 months & 25 days.

6 Learned State counsel is not in a position to dispute the aforementioned factual assertions based on record.

7 Having heard rival contentions this Court is of the opinion that all allegation relates to transfer of amount from account of company. There is no allegation of any cash amount having been misappropriated. Keeping in view the fact that it is a Magisterial trial; the petitioner is behind bars for about an year and the complainant already stands examined, the custody of the petitioner cannot be prolonged as a punitive measure, the present

petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. Petitioner is resident of Odhisha, thus in order to reduce the flight risk, the petitioner shall be released subject to heavy surety.

8 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

30.01.2024
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No