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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50422-2023 (O&M)
Date of decision: 05.02.2024

Ajay Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Abhinav Singla, Advocate
for the petitioner.

Mr. Arun Luthra, D.A.G., Punjab.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking concession of bail under Section 439 Cr.P.C. in case FIR No.60 dated 21.07.2022 under Section 409 of the Indian Penal Code, 1860 (Offence under Section 408 of IPC stands added lateron) registered at Police Station Talwara, District Hoshiarpur, Punjab.

2. Learned counsel for the petitioners *inter alia* contends that after the petitioner was arrested on 25.11.2022, charges were framed on 22.02.2023, however, till date none of the 17 witnesses cited by the prosecution had been examined, and hence, he could not be made to languish in custody for no fault of his and that too in a Magisterial trial. He has further submitted that false allegations have been levelled against the petitioner, who was Secretary of Bhatar Co-operative Agriculture Service

Society Limited, that he had embezzled an amount of Rs. 52,30,000/- by withdrawing the same from Fixed Deposits of the Co-operative Agriculture Service Society Limited. It has also been submitted that it is a matter of record that approximately an amount of Rs. 25,00,000/- had been deposited back into the account of the Co-operative Agriculture Service Society Limited on various dates by the petitioner.

3. Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite has contended that a huge amount had been embezzled by the petitioner from the Co-operative Agriculture Service Society Limited; however after the withdrawal of the embezzled amount, he had not deposited back the entire amount in the account of the Co-operative Agriculture Service Society Limited. Learned State counsel has not disputed the stage of the trial. However, he submits that the next date fixed before the trial Court is 16.02.2024, when the prosecution evidence is likely to commence. It has also been submitted that the petitioner is involved in another case, however, the said case is under the NDPS Act, wherein he was found to be in possession of 5 gms of intoxicant powder.

4. Heard.

5. The petitioner has been in custody since 25.11.2022 in a Magisterial trial; the trial has come to virtual standstill. It is a matter of record that for the past one year the prosecution evidence has not even commenced, hence, there is no possibility of the trial concluding in the near future. In the facts and circumstances as enumerated hereinabove, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/ Duty Magistrate concerned. However, it is

made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

05.02.2024

Satyawan

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No