

(2020) 03 P&H CK 0030

In the Punjab And Haryana At Chandigarh

Case No : Criminal Main No. 37384, 39591, 52006 Of 2019 (O&M)

Mange Ram And Ors

APPELLANT

Vs

State Of Haryana

RESPONDENT

Date of Decision : 04-03-2020

Acts Referred:

Code Of Criminal Procedure 1973 — Section 439

Indian Penal Code, 1860 — Section 120B, 406, 409, 420, 465, 468, 471, 477A

Code Of Criminal Procedure 1973 — Section 173

Citation : (2020) 03 P&H CK 0030

Hon'ble Judges : Jasgurpreet Singh Puri, J

Bench : Single Bench

Advocate : Sanjiv Gupta, Sukhwinder Singh Sudan, Balwinder Singh Sudan, Rahul Sharma, Munish Sharma

Final Decision : Allowed

Judgement

Jasgurpreet Singh Puri, J

The present order will dispose of the above noted three petitions filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in

FIR No.197 dated 06.06.2019, under Sections 420, 406, 409, 120-B, (Sections 465, 468, 471, 477-A IPC added vide order dated 8.1.2020, registered at

Police Station, Pinjore, District Panchkula.

Above said FIR in the present case was lodged on the basis of complaint from one Labour Union namely Karmik Sangh (rr) HMT, Pinjore, vide letter

No.Karmik Sangh (rr)/2018-19/ Dt. 6.7.2018 and various reports given by HMT that under the aegis of HMT Machine Tools, there is HMT

Cooperative Consumer Society Ltd. Pinjore which has been incorporated under the Haryana Cooperative Societies Act, as applicable to Haryana for

the purpose of managing and running of petrol pump and proceeds thereof would be used for the benefits of the employees of the said Company. As

per the FIR, the President, Ex-Officio Manager and Treasurer are nominated by Unit Chief of HMT Machine Tools Ltd. Petitioner Mr.P.K.Sinha

was nominated as President, petitioner Prem Chand as Manager and and petitioner Mange Ram as treasurer, who were managing the aforesaid petrol

pump as ex-officio employees of the HMT. On the allegations of some alleged misappropriation having taken place in the said society as per the

finding of internal business committee of the HMT, the present FIR was lodged.

So far as petitioner Daljit Singh is concerned, he was a superintendent of that Society and earlier ex-officio employee of the HMT. Thereafter, a

vigilance committee was formed which inquired into the matter and had concluded that even the present petitioners could be associated with the

involvement. Said business committee had indicted to petitioners namely P.K.Sinha and Daljit Singh for appropriate action against them and thereafter

another vigilance committee was formed in which P.K.Sinha was indicted and other two petitioners were not named.

It is the case of petitioner Mange Ram that he was not named in either of the aforesaid committees which were formed internally by the HMT

committee.

Learned counsel for the petitioners in all the three cases has submitted that so far as petitioner Mange Ram is concerned, he was appointed on

2.3.2017 and similarly P.K.Sinha was also appointed on 28.2.2017 and Daljit Singh petitioner was appointed on 28.10.2017 and it is the case of the

petitioner that subject matter of the present cases pertain to the financial year 2017-18. It is further submitted that in the present case after thorough

investigation, the police had presented the challan before the competent Court under Section 173 Cr.P.C. and thereafter, charges were framed on

23.11.2019 and the matter is now fixed for prosecution evidence. It is submitted that petitioner Mange Ram is in custody since 15.7.2019, petitioner

Daljit Singh is in custody since 7.7.2019 and petitioner P.K.Sinha is in custody since 28.7.2019 and the entire case pertains to Audit report and the

documents which are already with the police and is part of the challan and as such, no purpose would be served by keeping the petitioners in custody

as the entire case is based upon documents.

On the other hand, learned State counsel, on instructions from police official assisting him, submits that it is a case where fraud has been committed by the petitioner while managing the affairs of the cooperative society which was managing a petrol pump. He has stated that the total amount involved in the present case is Rs.3.5 crores of the year 2017-18 and the petitioners would be accountable for the alleged misappropriation of the amount. He has, however, admitted that all the petitioners were working in the Society as ex-officio employees only and the date of appointment of the petitioners as aforesaid is also not disputed. Learned State counsel has also not disputed the custody period of the petitioners and that they are not involved in any other case. It is also admitted that the challan stands presented and charges have also been framed.

So far as the aforesaid financial year is concerned, the petitioners were deputed in the petrol pump being ex-officio employees of the HMT.

However, the learned State counsel has opposed the grant of regular bail to the petitioners on the ground that during the course of investigation, now it has again been found that even for the financial year 2016-17, some misappropriation has also been found and for that thorough investigation has again

started and it is very likely that after thorough investigation, supplementary challan may be presented. However, so far as petitioners are concerned,

they were appointed on 2.3.2017, 28.2.2017 and 8.8.2017, for the financial year 2017-18 with an addition of few days from the financial year 2016-17.

Learned State counsel further, on instructions has stated that there is no likelihood that in case released on bail, the petitioners will tamper with the evidence or influence any witness.

I have heard the learned counsel for the petitioners as well as learned State counsel and have gone through the paper book.

The undisputed facts which emerge out from the averments made in the petitions as well as arguments raised by the learned counsel for the

petitioners as well as learned State counsel are that petitioner Mange Ram being ex-officio employee was appointed as Treasurer on 2.3.2017,

petitioner P.K.Sinha, was appointed on 28.3.2017, as ex-officio President and petitioner Daljit Singh was appointed on 8.8.2017 as office

Superintendent. All of them are ex-official employees of HMT and they were appointed for the purpose of managing the affairs of said petrol pump.

The challan also stands presented and charges have been framed. It is also undisputed that entire evidence is based upon documents which are already part of the challan and it is also not the case of the State that in case released on bail, there is likelihood that they may tamper with the evidence or influence the witnesses.

So far alleged embezzlement of learned State counsel w.r.t. Financial year 2016-17 is concerned, the same is only an apprehension, at this stage and for that police can always go deep into the matter and is fully competent to investigate the subject matter pertaining to the financial year 2016-17 in future but that cannot become a ground for rejection of the bail plea because some more misappropriation has been detected for earlier years especially in view of the fact that investigation was earlier completed. For the purpose of deciding the petitions for bail, the Court has to strike a balance between the individual liberty and the probability of likelihood that in case the petitioners are released on bail whether there is likelihood that they may hamper the investigation or tamper the evidence or influence the witnesses.

Considering the factual position as aforesaid and as stated by the learned State counsel, on instructions, that these are not the cases in which the petitioners may hamper with the investigation process or may influence the witness or tamper with the record coupled with the fact that trial of the case is likely to take long time particularly in view of the fact that State is now further investigating the matter regarding embezzlement, if any, in the financial year 2016-17, I deem it fit and appropriate to grant the concession of regular bail to the petitioners.

Consequently, all the three petitions are allowed. It is ordered that the petitioners shall be released on bail on their furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court. A specific direction is issued that the petitioners shall submit their passports, if any, before the learned trial

Court at the time of furnishing bail bonds/surety bonds and will furnish an undertaking that they will not leave the country without the prior permission of the learned trial Court and that whenever required for further investigation, they will fully cooperate with the police/investigation process with

regard to the same. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only

for the purpose of decision of present petition.

A copy of the order be placed on the files of connected cases.