

18.1.2006 Present: Mr. Raiiv Sood, counsel for the petitioner.
Mr. R.M.Bisht, Dy.A.G. for the State.

CrMP(M) No.834/05

The present petition was originally filed under Section 438 Cr.P.C. for grant of anticipatory bail. The bail petition was filed on 31.12.2005 and was listed before this Court on 2.1.2006. On 2.1.2006, when the matter was taken up, this Court was informed that the petitioner Duni Chand had been arrested within the premises of the High Court. The Investigating Officer was summoned and she appeared before the Court. According to her, the petitioner had not been arrested within the High Court premises but just outside. Thereafter, this Court had converted the petition to a petition under Section 439 Cr.P.C. and interim bail was granted to the petitioner.

Petitioner was the Pradhan of Gram Panchayat, Jabali from December 2000/January 2001 till December, 2005. One Naresh Kumar Attri who is also an accused in the case was the Secretary of the Gram Panchayat, Jabali. Another accused Mohinder Singh was a Depot Holder in the said Gram Panchayat. A complaint was made by one Shri Ganesh Dutt Attri to the Chief Minister of Himachal Pradesh that the accused –petitioner Duni Chand had mis-utilized public funds in connivance with the other accused. The funds meant for

various projects to be executed by the Gram Panchayat have been embezzled by him. According to the complaint, a huge amount has been withdrawn for works to be done but actually no work was done and false record was prepared to show that the funds have been utilized for the projects. On the basis of this complaint, FIR No.3 of 2006 was lodged against the petitioner at Police Station, Dharampur, under Section 406, 419,420,467,468 & 471 IPC. It is alleged that as per the investigation done till now, the petitioner has defalcated more than Rs. 2 lacs.

Shri R.M.Bisht, learned Deputy Advocate General has strongly opposed the petition and submits that the interim orders should be vacated. He submits that the petitioner is guilty of mis-utilizing and embezzling public funds and, therefore, bail should not be granted to him.

On the other hand, Shri Rajiv Sood learned counsel for the bail petitioner submits that it is apparent that the petitioner has been falsely implicated in this case due to political rivalry. According to him the complaint has been filed by Ganesh Dutt who is a political rival and who has lost the current election at the hands of the petitioner. The petitioner has again been re-elected as Pradhan.

Keeping in view the fact that the petitioner is a duly elected representative of the public and holds public office of Pradhan of the Gram Panchayat and also keeping in view the fact that the complaint has been filed by a political rival, without going into the merits of this case at this stage, I feel that it is a fit case where the ad interim order dated January 2, 2006 should be confirmed as per terms and conditions mentioned in the said order. It would be pertinent to mention that other accused, namely, Naresh Attri and Mohinder Singh have already been granted bail by the Judicial Magistrate Ist Class, Solan on 3.1.2006 in the same case. It is however made clear that this Court has not expressed any opinion on the merits of the case and the police is free to investigate the matter and proceed against the petitioner in accordance with law.

The bail petition is allowed in the aforesaid terms.
Dasti Copy.

January 18, 2006.
s.

(Deepak Gupta),
Judge.