

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.(M) No.721 of 2008

Decided on: July 31, 2008.

Tek Chand

...Petitioner.

VERSUS

State of H.P.

...Respondent.

Coram

The Hon'ble Mr.Justice Kuldip Singh, Judge.

Whether approved for reporting?¹No

For the Petitioner: Mr Jagdish Vats, Advocate.

For the respondent: Mr Anshul Bansal, Addl.A.G.

Kuldip Singh, Judge (Oral)

This is an application filed under Section 439 Cr.P.C. for releasing the petitioner on bail in F.I.R. No.90 registered on 11.9.2007 at Police Station, Tissa, District Chamba under Sections 409, 420, 34 IPC. The respondent has filed the status report.

2. Heard and perused the record. The prosecution case, in brief, is that Arvind Mohan Sharma, District Treasury Officer, Chamba submitted a written complaint dated 11.9.2007 stating therein that on 30.8.2007 at the time of transferring business of Sub Treasury Tissa to Punjab

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National Bank Tissa, it was found that from Sub Treasury Tissa an amount of Rs.41 lacs has been embezzled. Thereupon, a departmental inquiry was conducted and it was found that Rajesh Kumar, Senior Assistant, Tek Chand, Clerk and Asho Ram, Senior Assistant had embezzled Rs.41 lacs from 11.6.2007 to 22.6.2007 by preparing false documents. The allegations against the petitioner are that he is involved in all transactions for embezzling an amount of Rs.41 lacs on 11.6.2007, 13.6.2007 and 22.6.2007 along with his other companions. On this, the case was registered. During investigation several documents were taken into possession. The petitioner was arrested on 7.4.2008. The admitted and questioned documents pertaining to the petitioner and other accused were also taken into possession. The specimen handwriting and signatures of petitioner and other accused were also taken which were sent to handwriting expert. On completion of investigation, challan was presented in the Court on 5.7.2008. The opinion of the handwriting expert dated 30.7.2008 has also been received. It has been submitted by learned Additional Advocate General that as per the opinion of the handwriting expert the questioned documents were found to be of the accused involved in the case.

3. The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in

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the case. The petitioner was only a Clerk in the Sub Treasury. The embezzlement, if any, has been made by the co-accused. The cash was in the custody of the co-accused and the petitioner was never handling the cash. It has been submitted that he had only made the entries and played no role in preparing bills or withdrawal of cash which was the duty of the co-accused. The investigation in the case is complete. The challan has already been presented in the Court. The trial will take some time. The petitioner is ready to furnish bail bonds in accordance with the directions of this Court, if he is released on bail. The bail application of the petitioner was rejected by JMIC Chamba on 10.4.2008. The petitioner filed another bail application which was withdrawn on 22.4.2008. Thereafter, the petitioner filed bail application which was rejected by the learned Sessions Judge, Chamba on 12.5.2008. The petitioner filed Cr.MP(M) No.515 of 2008 in this Court which was withdrawn. The learned counsel for the petitioner has prayed for grant of bail to the petitioner. The bail application has been opposed by the learned Additional Advocate General on the grounds that the petitioner and his companions have committed serious offence. They were the trustees of the public money. He has submitted that this Court has dismissed Cr.MP(M) No.622 of 2008 and Cr.M.P.(M) No.676 of 2008 on 7.7.2008

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of co-accused Asho Ram and Rajesh Kumar. The case of the petitioner is on the same footing.

4. I have considered the rival contentions of the learned counsel for the parties. The allegations against the petitioner are that he has embezzled Rs.41 lacs while working in Sub Treasury, Tissa. The involvement of the petitioner has been attributed in every transaction of embezzlement. The learned Additional Advocate General has submitted that in case the petitioner is released on bail, he is likely to influence the prosecution witnesses. The offence under Section 409 IPC is punishable for imprisonment for life or with imprisonment of other description for a term which may extend to 10 years. In these circumstances, the application is dismissed. In case effective progress in the trial is not made then the petitioner may apply for bail again.

5. The observations made in the order shall not be construed as expression of opinion on the merits of the case.

July 31, 2008
(soni)

(Kuldip Singh), J.