

(2005) 09 AHC CK 0234**Allahabad High Court****Case No:** Criminal Miscellaneous Bail Application No. 15944 of 2005

Hemraj Maurya (In Jail)

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Sept. 28, 2005**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 406, 409, 68

Hon'ble Judges: Ravindra Singh, J**Bench:** Single Bench**Advocate:** Radhey Shyam Shukla, for the Appellant; A.G.A., for the Respondent**Final Decision:** Dismissed

Judgement

Ravindra Singh, J.

Heard Shri Radhey Shyam Shukla, learned counsel for the applicant and learned A.G.A.

2. This application has been filed by the applicant Hemraj Maurya, with a prayer that he may be released on bail in case crime No. 398 of 2004, under Sections 406 and 409 I.P.C., P.S. Nigohi, District Shahjahanpur.

3. From the perusal of the record it reveals that in the present case the F.I.R. was lodged by Shri Ramveer Singh Chauhan, Upper Zila Sahkari Adhikari, Tilhar, Shahjahanpur, on 16.10.2004 at 5 pm, in respect of the incident which had occurred between 12.11.1998 to 29.9.1999. According to the prosecution version the applicant was Secretary of the Kisan Sewa Samiti, Nigohi. The allegation against him is that he has misappropriated the amount of Rs. 4,02,391/- It is contended by the counsel for the applicant that the allegation made against the applicant is false and baseless because there is no evidence available on the record to support the allegation. It is further contended that this offence was committed by some other persons, but they have not been made the accused in the present case. The higher authorities, who were involved in the embezzlement, by hatching a conspiracy to

save their skin from the criminal liability, the applicant was made the accused in the present case and the applicant is an innocent person. He had discharged duties with honesty.

4. It is further contended that there is a difference in the amount of embezzlement as it is mentioned in the F.I.R. as Rs. 4,02,391/-, and this amount has been shown as Rs. 4,61,829.31 in the termination order of his service and this amount has been shown as Rs. 9,69,001.93 in the proceedings initiated against the applicant u/s 68(i) and this amount has been shows as Rs. 7,64,000/- in other proceedings and the applicant has been terminated from his services on 7.2.2002, but the present F.I.R. has been lodged on 16.10.2004. It is a too much delayed F.I.R. having no plausible explanation.

5. It is further contended that no opportunity was given to the applicant to explain the allegations made against him. It is further contended that the applicant is not a government employee, he was Secretary of Kisan Sewa Samiti Ltd., therefore, the offence u/s 409, I.P.C., is not made out against the applicant. It is opposed by learned A.G.A. by submitting that applicant has misappropriated a huge amount. The documentary evidence is available on record against the applicant.

6. Considering the facts and circumstances and the arguments made by the counsel for the applicant and learned A.G.A. and without expressing any opinion on the merits of the case, the applicant is not entitled for bail at this stage.

7. Accordingly this Bail Application is rejected.