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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision: 03.07.2015

1. CRM-M No.16413 of 2014 (O&M)

GAURAV GOYAL @ GAURAV KUMAR ....Petitioner
V.
STATE OF PUNJAB ....Respondent

2. CRM-M No.17802 of 2014

AKASH BANSAL ....Petitioner
V.
STATE OF PUNJAB ....Respondent

3. CRM-M No.9365 of 2014

NAVNEET KAUR SANDHU ....Petitioner
V.
STATE OF PUNJAB & ORS. ....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. Sudhir Sharma, Advocate and
Mr. Prateek Pandit, Advocate
for the petitioner(s).

Ms. G.K. Mann, Advocate
for the petitioner in CRM-M No.9365 of 2014 and
for the complainant in CRM-M Nos.16413 and 17802
of 2014.

Mr. Varun Sharma, A.A.G., Punjab.

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1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

RAJ MOHAN SINGH, J.

[1]. By this common order, I proceed to decide CRM-M Nos.16413 of 2014, 17802 of 2014 and 9365 of 2014 as all the petitions have arisen out of same controversy.

[2]. In the first two petitions, petitioner(s) seeks grant of anticipatory bail in case bearing FIR No.116 dated 19.04.2012 under Sections 420/120-B, 465, 467, 468, 471, 474, 408, 409, 167 IPC, Police Station Zirakpur, District SAS Nagar, Mohali and third petition bearing CRM-M No.9365 of 2014 is filed with a prayer for issuance of directions to respondents to complete investigation and to submit report under Section 173 Cr.P.C. Facts are being culled out from first case i.e. CRM-M No.16413 of 2014.

[3]. Prosecution story started with the background that aforesaid case was registered at the instance of Senior Manager, Punjab and Sind Bank, Zirakpur. In the complaint it was alleged that Ms. Navneet Kaur Sandhu D/o Sh. Puran Singh approached the Bank at Zirakpur Branch for the grant of construction loan for plot bearing No.430-31 situated in Mata Gujri Enclave, Village Kharar, Tehsil and District Mohali. Sale deed dated 26.02.2008 was deposited in the Bank as equitable mortgage by said Ms. Navneet Kaur Sandhu for raising loan of Rs.18 lacs. After scrutiny, loan was granted at the interest rate of 12% per annum on 02.01.2009 with stipulated condition that loanee will not sell the property without prior permission of the Bank. Two guarantors namely Rakesh Kapoor S/o Balwant Singh and Ashish Kapoor S/o Rakesh Kapoor were produced who also executed necessary documents in favour of Bank.

[4]. During currency of loan it came to the notice of the Bank that Ms. Navneet Kaur Sandhu has sold out 3-1/3 marlas of plot out

of total 10 marls to Rakesh Kapoor vide registered sale deed dated 06.01.2009. Mutation was also entered in favour of Rakesh Kapoor. Again second portion to the extent of 3-1/3 marlas was also sold out of 10 marlas of plot in favour of Ashish Kapoor S/o Rakesh Kapoor and mutation was also sanctioned in respect of that transaction. It has been alleged that aforesaid sale transactions were executed by Ms. Navneet Kaur Sandhu without consent of the Bank and in connivance/collusion pleaded between her and Rakesh Kapoor and Ashish Kapoor by defrauding the Bank. With this background the FIR came to be registered.

[5]. During course of investigation of the aforesaid FIR it has been revealed that Ms. Navneet Kaur Sandhu D/o S. Puran Singh resident of H.No.99, Ist Floor, Phase VIII Mohali had contacted Ashutosh Sharma and Ashish Kapoor etc. for obtaining loan in order to meet her requirement against the property/plot No.430-31. The aforesaid persons in connivance with Devinder Singh, Branch Manager, Punjab and Sind Bank, Zirakpur obtained signatures of Ms. Navneet Kaur Sandhu on blank papers and thereafter it was told to her that loan cannot be sanctioned and she should sell her property. Original sale deed was taken by these persons in connivance with Branch Manager from the Bank and necessary entries were incorporated in the revenue record on 06.01.2009 and 12.02.2009 i.e. the dates on which sale deeds were executed in favour of Rakesh Kapoor and Ashish Kapoor. Ms. Navneet Kaur Sandhu was told that after getting the entry effected in the revenue

record, they shall return the original documents to her and Ashish Kapoor etc. gave two undated cheuqes amount to Rs.15 lacs each i.e. cheque No.167542 and 167543 of Bank of India, Sector 20 Branch, Chandigarh and two undated payees account cheques of Rs.1 lac each of Punjab and Sind Bank, Zirakpur Branch. She was told that by paying her a sum of Rs.32 lacs they shall take back the cheques.

[6]. The cheques of Rs.1 lakh each given to Ms. Navneet Kaur Sandhu dishonoured on presentation on account of insufficiency of funds in the account.

[7]. On 10.01.2011 Ms. Navneet Kaur Sandu received notice from Punjab and Sind Bank, Zirakpur Branch on account of non-payment of loan of Rs.12,40,831/-. At this juncture Ms. Navneet Kaur Sandu came to know that loan of Rs.18 lacs was obtained by these above-named persons from the Bank in her name and they also transferred the plot by the aforesaid two sale deeds in their names. No amount of loan was paid to Ms. Navneet Kaur Sandu and no amount was returned by her in the account. In this way a fraud has been committed with Ms. Navneet Kaur Sandu and the Bank. Consequently offence under Section 420, 120-B IPC was incorporated against Rakesh Kapoor, Ashish Kapoor, Ashutosh Sharma and Devinder singh-Branch Manager. The matter was then investigated. Inquiry report has been prepared by Incharge, Economic Offence Wing (Counseling) District SAS Nagar, endorsing that Ashutosh Sharma, Ashish Kapoor, his father Rakesh Kapoor

and Branch Manager Devinder Singh in connivance with each other have taken out a loan of Rs.18 lacs from the Bank by playing fraud. By getting sale deeds executed from Ms. Navneet Kaur Sandu in favour of Ashish Kapoor and his father Rakesh Kapoor, they have played fraud with Ms. Navneet Kaur Sandu and, therefore, recommendation for taking legal actions was made by the Investigating Agency.

[8]. The stand of Ms. Navneet Kaur Sandu is that Ashutosh Sharma being neigbour of her, visited her house and assured her sanctioning of loan for construction of her house on the plot in question. He introduced Ashish Kapoor and stated that he shall get the loan sanctioned from his friend Devinder Singh, Branch Manager of Punjab and Sind Bank, Zirakpur Branch. Ashutosh Sharma and Ashish Kapoor took her to Bank on 22.12.2008 for getting the loan sanctioned and also introduced her with Harish Garg, Chartered Accountant working in the Bank and the Devinder Singh, Branch Manager obtained signatures of Ms. Navneet Kaur Sandu on blank papers and printed Performas and on cheques hurriedly by stating that these are meant for security for the purposes of repayment of laon by instalments. Ashutosh Sharma and Ashish Kapoor asked Ms. Navneet Kaur Sandu to give the original sale deeds to Devinder Singh, Branch Manager as he will create mortgage of the plot in favour of the Bank and shall sanction the loan of Rs.5 lacs.

[9]. On 04.01.2009 Ashutosh Sharma and Ashish Kapoor came to the house of Ms. Navneet Kaur Sandu and told her that loan has

not been sanctioned. On this, she asked for the return of the documents/signed documents and cheques which were executed on 22.12.2008. Ashutosh Sharma and Ashish Kapoor told him that Devinder Singh shall return the same within day or so and assured her that in the event of non-sanctioning of loan these papers are of no consequence. These persons assured her that since loan has not been granted, therefore, she can sell two parcels of 100 square yard each out of plot in favour of Ashish Kapoor and his father Rakesh Kapoor and from the consideration she can construct the house on remaining portion of the plot. Ashish Kapoor gave two undated cheques of Rs.15 lacs each drawn on Bank of India, Sector 20 Chandigarh Branch bearing No.167542 and 167543 and also two undated cheques of Rs.1 lac each drawn on Punjab and Sind Bank, Zirakpur Branch. She was also told that at present money is not available in their account and an amount of Rs.32 lacs shall be paid in cash towards the cost of these plots and these cheques will be taken back. On seeing the inability of execution for want of original sale deed Ashish Kapoor assured her that they will bring the sale deed back on 05.01.2009 from Devinder Singh Branch Manager for the purposes of executing these to sale deeds. On the next day they brought the original sale deeds but did not hand over the same to Ms. Navneet Kaur Sandu. They got the sale deeds executed on 06.01.2009 and 12.02.2009 in favour of Ashish Kapoor and his father Rakesh Kapoor and assured that original sale deeds shall be given to her on getting the entry drawn in the revenue record.

[10]. After execution of sale deeds, these persons stopped visiting Ms. Navneet Kaur Sandu nor paid any amount to her. Thereafter Ms. Navneet Kaur Sandu presented one cheque in Central Bank of India, Sector 37 Branch, Chandigarh and the same was returned back on 20.01.2009 on account of insufficiency of funds in the account. Thereafter Ashish Kapoor assured her that he will make the payment of Rs.32 lacs towards cost of both the plots and thereafter both Ashutosh Sharma and Ashish Kapoor came to her house and assured on the same lines.

[11]. Ms. Navneet Kaur Sandu got shock when she received notice from the Bank on 10.01.2011. She contacted Ashish Kapoor and Ashutosh Sharma and they further assured her that the same has been wrongly sent by the Bank. Ms. Navneet Kaur Sandu did not entertain them and visited Punjab and Sind Bank, Zirakpur Branch and came to know that Devinder Singh Branch Manager has been transferred in 2010 and new Manager Manjit Singh has joined in his place and he admitted that he has sent the notice under Scrutinisation Act to her. She was informed that a loan of Rs.18 lacs is outstanding and no instalment has been paid.

[12]. Devinder Singh Branch Manager by opening bogus saving account in the name of Ms. Navneet Kaur Sandu transferred Rs.6 lacs on 30.12.2008 in the name of M/s Goyal Building Material, Zirakpur (Rs.2 lac each and Rs.1 lac cash 4602629 dated 30.12.2008). On the back side of cheque there are signatures of Ashish Kapoor. The saving account shows that from 30.12.2008 to

05.08.2010 many bogus transactions were made. M/s Goyal Building Material Zirakpur was not known to Ms. Navneet Kaur Sandu and how this amount of Rs.6 lac was transferred in favour of M/s Goyal Building Material, Zirakpur on 30.12.2008 from the account was a mystery. She claimed that no loan amount was sanctioned or paid to her. She claimed that fraud and financial loss of Rs.44 lacs (12+32) has been done to her by these persons and two plots have been usurped by them. They were guarantors of the loan. Devinder Singh Branch Manager was the mastermind. Further investigation reveals that Akash bansal is the transferee of Rs.6 lacs from Mr. Gaurav Goyal @ Gaurav Kumar.

[13]. Learned counsel for the petitioner states that petitioner-Gaurav Goyal @ Gaurav Kumar's name does not figure in the FIR. Petitioner was having a current account bearing No.1 with Punjab and Sind Bank, Zirakpur Branch in the name of M/s Goyal Building Material and was authorised signatory. Since it was a business account having transactions of lacs of rupees, therefore, he was having good relation with Devinder Singh Branch Manager. In the month of December 2008, when new cheque book was issued to him, Devinder Singh Branch Manager requested the petitioner that one of his close customer namely Akash Bansal is having numerous accounts in this Bank and he wants his favour by entry of Rs.6 lacs through account of the petitioner. Akash Bansal was also stated to be known to petitioner. Petitioner being heavily burdened with the assignments, could no understand the conspiracy of Branch

Manager and Akash Bansal. With this background the petitioner seeks concession of anticipatory bail. He further revealed that two blank cheques bearing No.531224 and 531226 were also taken from him in order to get the said transaction materialised.

[14]. Petitioner further states that on 30.12.2008 Akash Bansal in connivance with Branch Manager withdrew Rs.6 lacs from the account of petitioner and on the same day three cheques bearing No.405626, 405627 and 405628 of Rs.2 lacs each were deposited in the account of the petitioner.

[15]. Mr. Varun Sharma, A.A.G., Punjab on instructions from Police Official states that Akash Bansal and Gaurav Goyal @ Gaurav Kumar have been declared proclaimed offender on 25.11.2014.

[16]. Perusal of order dated 20.11.2014 reveals that learned State counsel made a statement to the effect that a fresh inquiry has been initiated which is being conducted by DSP(D) Nawanshahar. Time was sought to place on record the said inquiry report. Case was adjourned thereafter but the said inquiry report has not been placed on record.

[17]. Be that as it may, the allegations on record prima facie require thorough investigation for which custodial interrogation of petitioner and other co-accused who have been declared proclaimed offender is required in order to un-earth wider conspiracy in defrauding the Bank as well Ms. Navneet Kaur Sandhu.

[18]. Consequently the prayer made in CRM-M No.16413 of

2014 and CRM-M No.17802 of 2014 for anticipatory bail in favour of Petitioner(s)-Gaurav Goyal @ Gaurav Kumar and Akash Bansal respectively is dismissed.

[19]. Since the report of fresh investigation is statedly been prepared by the Police, therefore likelihood of its being presented before the competent Court can be foreseen. In view of aforesaid no specific direction is required to be issued as in all probability in view of fresh inquiry conducted by DSP(D) Nawanshahar required report under Section 173 Cr.P.C., shall be filed in the Competent Court. With these observations, CRM-M No.9362 of 2014 is also disposed of.

[20]. Resultantly, CRM-M No.16413 of 2014 and CRM-M No.17802 of 2014 for the grant of anticipatory bail are dismissed and CRM-M No.9365 of 2014 for issuance of necessary directions is disposed of.

[21]. Registry is directed to place on record copy of this order on the file of connected cases.

July 03, 2015 **(RAJ MOHAN SINGH)**
Atik **JUDGE**