IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No.35201 of 2014 (O&M)
Date of Decision: 01.10.2015

Nalesh Kumar Shaha @ Neelesh Kumar Saha

.... Petitioner

Vs.

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. K.P.S.Dhillon, Advocate for the petitioner.

Ms. Rimplejeet Kaur, Assistant Advocate General, Punjab for the respondent along with ASI Amrik Singh.

Mr. Satinder Khanna, Advocate for the complainant.

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JASWANT SINGH, J. (Oral)

The prayer is for grant of anticipatory bail in case FIR No.99 dated 19.09.2014, under Sections 406, 420, 467, 468, 471, 472, 473 and 120-B of the Indian Penal Code, registered with Police Station Division No.8, Kailash Chowk, Ludhiana.

The admitted facts, which emerge, are that the property in question i.e. a situated shop in the heart of City Ludhiana was owned by co-accused Rakesh Bhanot and he mortgaged the said property to ICICI Bank in the year 2007 for raising a loan of Rs.70 lacs. Admittedly, the said loan against the said property has not been repaid and it is stated that the liability stands swelled to Rs. 2 crores. The said mortgaged shop was sold vide sale deed dated 13.12.2012 by said Rakesh Bhanot to his wife/co-accused-Kiran Bhanot.

On the strength of the said sale, another loan amount of Rs. 70 lacs was raised by Kiran Bhanot from UCO Bank in the year 2013. Thereafter, an agreement to sell dated January/April, 2014 was executed by Kiran Bhanot with the complainant-Anil Bedi for total sale consideration of Rs. 2, 25,00,000/- (Rupees Two Crores and Twenty Five Lacs). An earnest money for a sum of Rs. 50 lacs was received. Rakesh Bhanot is one of the witnesses to the contents and execution of the said agreement to sell. In the said agreement to sell, it has been mentioned that the property is mortgaged with UCO Bank, Ludhiana. There is absolutely no reference to the prior charge of ICICI Bank to the said property. The crucial lines are **"***besides this, this property is not mortgaged or sold to any other party and there is no loan from any bank against this property***"**.

It is not in dispute that the loan/charge qua ICICI Bank still exists qua the said property and a sum of rupees more than two crores is outstanding qua the same. It is in the aforesaid background, when neither the earnest money was returned nor the sale deed was executed, the proposed vendee-Anil Bedi (complainant), lodged the aforesaid FIR with the allegations against the present petitioner/accused, two other officials of UCO Bank i.e. Surinder Sharma, Sr. Manager and Sh. Chander Kant Gupta, Sr. Manager, accused- Rakesh Bhanot and his co-accused/wife-Kiran Bhanot that they have in connivance with each other intentionally cheated him.

The role attributed to the aforesaid three bank officials of UCO Bank including the present petitioner is that in spite of a clear legal advise on the file to the effect that before sanctioning of the loan of Rs. 70 lacs in favour of Kiran Bhanot, the previous sale deed dated 12.11.2007 in favour of Rakesh Bhanot qua the shop executed by the previous owner, which concededly was lying deposited with the ICICI Bank be summoned and examined, the loan was sanctioned on the basis of the collusive sale deed dated 13.12.2012 in favour of the wife by Rakesh Bhanot by totally ignoring the legal advise.

Learned Counsel for the petitioner submits that there is no fault on the part of the petitioner in releasing the title deed as the same has been done under the rules and provisions of the Bank and the same has been released after the clearance of the loan account and approval from the higher authorities, therefore, no offence is made out.

The argument is liable to be rejected.

In view of the above, no case for grant of anticipatory bail is made out.

Accordingly, the present petition stands dismissed.

October 01, 2015 **(JASWANT SINGH)**
Gagan **JUDGE**