IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No.39154 of 2014 (O&M)
Date of Decision: 01.10.2015

Rakesh Bhanot and others

.... Petitioners

Vs.

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. P.S.Hundal, Senior Advocate assisted by Mr. Jashandeep Singh, Advocate for the petitioners.

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

Mr. K.P.S.Dhillon, Advocate for Mr. Satinder Khanna, Advocate for the complainant.

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<u>JASWANT SINGH, J. (Oral)</u>

The prayer is for grant of anticipatory bail on behalf of three petitioners/accused, namely, Rakesh Bhanot, his wife-Kiran Bhanot and Surinder Sharma (Sr. Manager, UCO Bank) 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 shop situated in the heart of City Ludhiana was owned by petitioner No.1/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 petitioner No.1/accused-Rakesh Bhanot to his wife-petitioner No.2/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. The agreement to sell is annexed as **Annexure P-4** and 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 three petitioners/accused i.e. husband-Rakesh Bhanot, his wife-Kiran Bhanot and Surinder Sharma, Sr. Manager, UCO Bank as also against two other officials of UCO Bank i.e. Sh. Chanderkant Gupta, Sr. Manager and Sh. Nalesh Kumar Saha, Chief Manager that they have in connivance with each other intentionally cheated him.

The role attributed to the aforesaid three bank officials of UCO Bank 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 petitioners has argued that in the agreement to sell, there is a reference of an outstanding loan of Rs. 70 lacs and in the background that the entire loan of the UCO Bank had been cleared, therefore, there was no suppression of the factum of outstanding loan.

After hearing learned Counsel for the petitioners, the argument is rejected. There is absolutely no reference either of the previous mortgage of the shop in question with the ICICI Bank or the previous charge/outstanding loan of the ICICI Bank, which concededly has swelled to Rs.2 Crores as of now, nor is there reference that the said outstanding loan of ICICI Bank has been cleared in the agreement to sell executed by the accused-Kiran Bhanot in favour of the complainant-Anil Bedi qua the sale of shop.

In these circumstances, it is evident that there was a clear intention to cheat the complainant-Anil Bedi.

In view of the above, no case for grant of anticipatory bail is made out on behalf of all the three petitioners/accused.

Accordingly, the present petition stands dismissed.

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