

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6452-2014 (O&M)
Date of Decision: January 19, 2015

Balwinder Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Paramjit Singh Jammu, Advocate,
for the petitioner.

Mr. Shilesh Gupta, Addl. AG, Punjab,
for the respondent.

Mr. A.S. Virk, Advocate,
for the complainant.

NARESH KUMAR SANGHI, J. (Oral)

1. Prayer in this petition is for grant of anticipatory bail to the petitioner, Balwinder Kumar, son of Jaimal Singh, resident of 130, Village Pandori, Post Office, Lamin, Tehsil Mukerian, District Hoshiarpur, who has been booked for having committed the offences punishable under Sections 406 and 420, IPC, in a case arising out of FIR No. 20, dated 23.1.2014, registered at Police Station, Navi Baradari, Jalandhar.

2. Learned counsel contends that a case of breach of contract has been given the colour of a criminal case; even if the

whole case of the prosecution is taken at its face value, then also the essential ingredients of Sections 406 and 420, IPC, are not attracted so far as the petitioner is concerned; and that the petitioner has joined the investigation and cooperated with the investigating agency. It was also pointed out by learned counsel for the petitioner that in spite of efforts made by the petitioner to effect a compromise with the respondent bank, the same could not be materialized.

3. Learned counsel for the State very fairly states that the petitioner has joined the investigation, but he (petitioner) has failed to get recovered the three vehicles for which the loan was obtained or the petitioner stood as a surety.

4. Learned counsel for the complainant has also adopted the argument raised by the learned counsel for the State.

5. I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

6. As per the allegations, the petitioner had obtained the loan from the complainant for purchasing two vehicles and he also stood as a surety for a borrower of the loan from the complainant for purchasing a vehicle. The petitioner had paid 13 instalments in

one case and 24 instalments in another. The borrower for whom the petitioner had stood as a surety, had paid 5 instalments of the loan amount. The petitioner has already joined the investigation. The applicability of Sections 406 and 420, IPC, would be a moot point before the learned Trial Court so far as the involvement of the petitioner is concerned.

7. Keeping in view the totality of the facts and circumstances of the present case, the present petition is allowed. The ad-interim directions issued by this Court vide order dated 21.2.2014 are made absolute. The petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down in Section 438(2), Cr.P.C.

January 19, 2015
Pkapoor

(NARESH KUMAR SANGHI)
JUDGE