

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

**CRM No. M-36142 of 2016
DECIDED ON: OCTOBER 07, 2016**

RAJESH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE JUSTICE JASPAL SINGH

Present: Mr. Shailendra Sharma, Advocate
for the petitioner.

Mr. Vishal Khatri, Advocate
for the complainant.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Section 438 Cr.P.C., petitioner has sought pre-arrest bail in case FIR No. 0490, dated 02.08.2016, under Sections 420, 467, 468, 471, 420 and 120-B IPC registered at Police Station Assandh, Karnal, Haryana.

Instant case has been registered on the basis of complaint lodged by Sandeep Singh son of Bir Singh resident of Village Rahara, Tehsil and Police

Station Assandh, District Karnal, who has unfolded that as per Jamabandi for the year 2012-2013, he alongwith his brothers namely, Kuldeep and Pardeep, are owners in possession of land, comprised in Khewat No. 35, situated at village Rahara, Tehsil Assandh, District Karnal. A necessity arose to him for obtaining loan and for that purpose, he got the Jamabandi from Computer Clerk of Tehsil Assandh. On perusal thereof, it came into light that the names of his brothers from the said jamabandi were missing and against their names, the names of Amit, Kuldeep and Sandeep were find mention as owners to the extent of $\frac{1}{4}$ share each in three equal shares of their land. It further revealed that on the basis of aforesaid false and forged jamabandi, Amit and Sandeep had procured a loan to the tune of ₹20,00,000/- each from Corporation Bank, Pundri. When the matter was enquired into from Halqa Patwari it emerged that assistant of Patwari in connivance with Sandeep, Amit and Kuldeep had forged and fabricated the revenue record and further they in connivance with the bank officials and Ajmer Singh Nambardar had obtained the loan in a wrongful manner.

The allegation against the petitioner is that he, by projecting himself as Amit obtained the loan from Corporation Bank.

The contention of learned counsel for the petitioner is that he has been falsely implicated in the instant case. Neither the petitioner is a resident of District Karnal nor he has obtained any kind of loan by projecting himself as Amit. Merely because the photograph of the petitioner was found affixed on the loan application of so called Amit, it cannot be concluded that petitioner

impersonated and obtained loan. He further contended that for obtaining any kind of loan, not only the photograph of the person is required, but also the address and identity proof is also required in the absence of loan which cannot be sanctioned. Merely on the basis of fact that the photograph of the petitioner was found affixed on the loan application form of Amit, he cannot be fastened with any civil or criminal liability. Moreover, the loan amount is not given in cash to the loanee and the amount is always credited in the bank account of the loanee.

Learned counsel for the petitioner further contends that the petitioner is ready to join the investigation and abide by all the terms and conditions imposed by this Court in case he is granted the concession of pre-arrest bail.

On the other hand, learned counsel for the complainant has strongly resisted the instant petition submitting that petitioner actually participated and succeeded in obtaining the loan by projecting himself as Amit.

This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and have perused the record available on file.

The mere fact that the loan amount has been deposited by the Manager of the bank does not *ipso facto* mean that entire case of the prosecution be brushed aside. In fact, this Court is of the considered that the amount, if any, deposited with the Bank by Manager is just to save his skin as well as his service. Otherwise he is found involved actively in sanctioning the loan on the basis of forged and fabricated documents. His connivance with his co-accused

is otherwise stands *prima facie* established. The loan amount to the tune of ₹20,00,000/- was also disbursed to the petitioner, which has been subsequently stated to have been deposited by the Manager of Corporation Bank, Pundri. In fact, it is a serious matter and number of persons are involved including Bank Manager, its officials/officers as well as other private persons who appear to have formed a gang. The matter is required to be deeply investigated.

This Court is of the considered view that custodial interrogation of the petitioner is required for culling out all the ramifications involved in this matter and in the absence of custodial interrogation, investigation of this case is likely to be stultified.

Accordingly, instant petition is dismissed.

OCTOBER 07, 2016
sham

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*