

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-371 of 2016 (O&M)
DECIDED ON: August 08, 2016

SURINDER SINGH SIDHU

.....PETITIONER..

VERSUS

STATE OF PUNJAB

....RESPONDENT..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Daldeep Singh, Advocate,
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

JASPAL SINGH, J (ORAL)

CRM-6068-2016

Application is allowed. Documents (Annexures A-1 to A-3) are taken on record, subject to all just exception.

CRM stands disposed of.

Main case

By virtue of instant petition, petitioner-Surinder Singh Sidhu has prayed for pre-arrest bail, feeling apprehension of his arrest, in case bearing FIR No. 154, dated 13.06.2015, under Sections 420, 465, 467, 468, 471 and 120-B IPC, Police Station Kotwali, Bathinda, District Bathinda.

2. At the time of issuance of notice of motion, following order was passed by this Court:-

Prayer is for grant of anticipatory bail in case FIR
No.154 dated 13.6.2015 under Sections 420,465,
467,468,471,120-B IPC, PS Kotwali,Bathinda Distt.Bathinda.

It transpires that one Mrs.Monika Garg and her husband Bhagwan Dass had obtained a loan of Rs.1.45 crores for their business in the name and style of M/s Ashwit Cement Service. One Raj Kumar was the first guarantor and Darshan Singh (since deceased) was second guarantor. Petitioner accused Surinder Singh Sidhu,Branch Manager of Punjab and Sind Bank had recommended sanctioning of the loan on the report that the loan was safely secured by the properties of the first guarantor as well as second guarantor. Sh.Sohan Singh Kalra,Zonal Manager had ultimately sanctioned the loan. The loan ultimately became a non-performing asset and under The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002 proceedings against second guarantor Darshan Singh were initiated since the mortgaged property of first guarantor could not be auctioned due to third party occupation. Due to proceedings second guarantor Darshan Singh committed suicide. Complainant,who is wife of Darshan Singh has levelled allegations against bank officials as well as against Raj Kumar. It is contended that at the time of mortgage of the property by the first guarantor the property was not under any third party occupation. However, the loan was totally secured by both the mortgaged properties on the basis of evaluation and title reports. It is thus contended that no case is made out against the present petitioner. Notice of motion for 23.2.2016. In the event of arrest, the petitioner shall be released on bail on furnishing adequate bail and surety bonds to the satisfaction of the Arresting/Investigating Officer/Trial Court. Petitioner shall appear before the I.O., as and when called upon for investigation and shall also be bound by all the conditions stipulated in Section 438(2) Cr.P.C.

3. Learned State counsel has fairly conceded that in compliance of order dated 11.01.2016, the petitioner has already joined the investigation. Moreover, the entire case of the prosecution is based upon documents, which have already been collected by the investigating agency. Even otherwise, the

petitioner while posted as Branch Manager of Punjab and Sind Bank had recommended the sanctioning of loan on the report made by the concerned officers of the Bank as well as advocate and the loan was sanctioned by the Zonal Manager. The instant case stands registered on the basis of the statement made by the wife of Darshan Singh, who stood as one of the guarantors. The property of Darshan Singh, which was mortgaged with the Bank has already been put to an auction whereas the property belongs to the another guarantor namely Raj Kumar could not be auctioned due to the reason that the property mortgaged by him was in occupation of some other person. It is well settled proposition of law that the Bank is entitled to recover the amount of loan from either of the guarantors as well as/or that of loanee, jointly or severally.

4. Taking into consideration the aforesaid aspects of the case but without expressing any opinion on the merits, the petition is allowed and order dated 11.01.2016 is made absolute but subject to the conditions provided under Section 438 (2) Cr.P.C.

5. However, it is made clear that any observation made in this order shall have no bearing on the merits of the main case.

August 08, 2016
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*