201 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) CRM No. M-43061 of 2014 (O&M)
Decided on: 31.08.2016.

Rakesh Bhanot and others
... Petitioners

Versus

State of Punjab ... Respondent

(2) CRM No. M-42153 of 2014 (O&M)

Chander Kant Gupta
... Petitioner

Versus

State of Punjab
... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. P.S. Hundal, Sr. Advocate with
Mr. Dinesh Trehan, Advocate,
for the petitioners.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. Parminder Singh, Advocate,
for the complainant.

JITENDRA CHAUHAN.J.(ORAL)

This order shall dispose of afore-mentioned two anticipatory bail applications filed under Section 438 Cr.P.C in FIR No.348 dated 6.10.2014, registered under Sections 420, 465, 467, 468, 471, 201 and 120-B IPC at Police Station Kotwali, District Bathinda.

The FIR was registered on the application moved by Sharan Dass on behalf of M/s Gurdas Agro Private Limited, Amrik Singh Road, Bathinda (for short "the complainant"). It was alleged by the complainant that he had been doing business with UCO Bank, Branch Amrik Singh Road, Bathinda for the last many years. The officers of UCO Bank, Sukhdev Singh Wassan, DGM, Zonal Officer, Ludhiana, Nilesh Kumar Saha, Chief Manager, MCU Branch, Ludhiana, Chander Kant Gupta, Senior Manager (Credit), M.C.B. Branch, Ludhiana, Branch Manager, Branch Bathinda, had fraudulently sanctioned loan of Rs.6.50 crores in favour of M/s Arjun Mal Retail Holding Pvt. Ltd without taking requisite documents from the firm. Out of the said amount, the firm had withdrawn Rs.4.50 crores. The Punjab and Sind Bank, Phagwara had sanctioned Rs.3.20 crores in favour of the above said firm M/s Arjun Mal Retail Holding Pvt. Ltd against mortgage of property. The UCO Bank officers contacted the officers of Punjab and Sind Bank for the recovery of their loan of Rs.6.50 crores jointly out of the property mortgaged but the officers of the latter bank refused to oblige them. In order to save their services, the officers of the UCO Bank approached the complainant. On 19.12.2013 Sukhdev Singh Wassan, DGM, UCO Bank, Ludhiana came to complainant's office located at Amrik Singh Road, Bathinda and asked for a loan of Rs.2 crores for three days but the complainant showed his inability towards the same. After some days, Nilesh Kumar Saha, Chief Manager and Chander Kant Gupta, Senior Manager, UCO Bank came to the complainant and asked for a loan of Rs.2 crores, however, again, the complainant showed his inability. As per dealings with the bank, two security cheques of the complainant were lying with UCO Bank, Bathinda and the Bank officers without permission of the complainant or his partners purchased cheque of Rs.2 crores from the HDFC Bank, Bathinda and deposited the amount in account No. 0135021C001561. The accused withdrew an amount of Rs.1,99,28,545/- from this account fraudulently. The bank officials filled in their own cheques and got transferred the money in account No. 071010200004893 of M/s Arjun Mal Retail Holding Pvt. Ltd with the Axis Bank, Phagwara through RTGS without the knowledge and permission of the complainant. In fact, the Bank officers sanctioned a loan of Rs.6.50 crores in favour of M/s Arjun Mal though the sale deed was lying with the Punjab and Sind Bank, Phagwara. From the sanctioned loan, an amount of Rs.4.50 crores was withdrawn from the bank by the accused and in order to save their skin, the bank officers connived with the accused party, withdrew the amount from the account of the complainant and paid the same to Punjab and Sind Bank, got the original sale deeds from Punjab and Sind Bank and deposited the same with the UCO Bank. When the complainant came to know about the fraud of Rs.2 crores, he asked the bank officers for his money but the bank officers did not give any satisfactory reply.

Learned Senior counsel for the petitioners contends that the petitioners have been falsely implicated in the present case. The cheque had been in fact signed by the complainant and even the cutting over the cheque was signed by the complainant. As against the property worth Rs.30 crores, loan of Rs. 6.50 crores was got sanctioned by the petitioners. He further submits that a new fact has come on the record that the cheque in question was signed by the complainant.

On the other hand, the learned counsel for the complainant states that he is not interested in the conviction of the petitioners but is concerned with his amount only. A cheque of Rs.2 crores lying deposited with the UCO Bank as security has been used by the Bank and the amount of Rs.2 crores has been withdrawn from the account of the complainant by the accused just to save their skin as a loan of Rs.6.50 crores had been sanctioned in favour of the M/s Arjun Mal Retail Holding Pvt. Ltd without obtaining proper documents. The amount of Rs.2 crorers withdrawn from the account of the complainant was deposited in the account of Punjab National Bank and the sale-deed lying with the PNB was obtained by the UCO Bank. Till date, the money has not been returned to the complainant. The Bank was not authorised to withdraw money from the account of the complainant without his consent or knowledge.

I have heard the learned counsel for the parties and have gone through the case file.

Petitioner in CRM M-42153 of 2014 had approached the complainant with regard to advancement of loan of Rs.2 crores which was not acceded to. Despite that, without consent or knowledge of the complainant, the amount had been transferred from his account to that of accused firm.

The petitioners in CRM M-43061 of 2014 are the proprietors of M/s Arjun Mal Retail Holding Private Limited and they have cheated the complainant of Rs.2 crores. Earlier also, their bail application had been dismissed vide order dated 21.11.2014 passed in CRM M-39285 of 2014. The petitioners are involved in two more FIRs bearing No.99 dated 19.9.2014 registered under Sections 406 etc. IPC at Police Station Division No.8 Kailash Chowk, Ludhiana and FIR No. 126 dated 22.10.2014 registered under Section 420 IPC at Police Station City Phagwara, District Kapurthala. Keeping in view the fact that the earlier bail application filed by the accused was dismissed on 21.11.2014, the amount of Rs.2 crores diverted from the account of the complainant has not been returned so far and in view of the antecedents of the petitioners, this Court feels that the petitioners do not deserve the concession of anticipatory bail.

Consequently, both the petitions are dismissed.

31.08.2016. **(JITENDRA CHAUHAN)**
SN **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No