

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

(116)

CRM-M-955-2016 (O&M)

Decided on: May 26, 2016.

Ajay Sharma

.... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Sanjeev Duggal, Advocate, for the petitioner.

Ms. Simsi Dhir Malhotra, DAG, Punjab.

Mr. Gaurav Bhaiya, Advocate, for the complainant.

M.M.S. BEDI, J (ORAL)

Petitioner seeks concession of regular bail in case FIR No.1 dated 02.05.2015, under Sections 419, 420, 465, 467, 468, 471 and 120-B IPC which was registered at Police Station NRI, Kapurthala at the instance of Pankaj Shukla alleging that the petitioner in connivance with other co-accused had obtained a trade loan limit of Rs.90 lacs from Bank of Baroda by producing his brother-in-law Manoj Kumar who impersonated complainant Pankaj Shukla before the Bank authorities and executed other loan documents and also mortgaged property pertaining to complainant Pankaj Shukla whereas the complainant was in U.K.

It is a fact that the Bank has filed a suit for recovery against the complainant and others.

Learned counsel for the complainant has intervened to oppose application for bail on the ground that it is the property of the complainant

which has been fraudulently hypothecated to the Bank by the petitioner, his brother-in-law Manoj Kumar in connivance with the Bank Manager.

It has been informed that at present the Bank has taken possession of the property as per the provisions of SARFAESI Act but the land is yet to be auctioned.

Learned counsel for the petitioner has submitted that the petitioner is ready to settle the entire controversy by making necessary arrangements to satisfy the Bank as well as the complainant, in case, he is granted interim bail as challan has already been presented and he has been in custody for the last more than eight months. No prosecution witness has yet been examined.

Striking a balance between the right of petitioner of liberty during pendency of the trial as well as the interest of the prosecution and the complainant, I deem it appropriate to grant the concession of bail to the petitioner during pendency of the trial subject to deposit of part of the amount taken by him from the Bank in connivance with other co-accused, taking into consideration the offer of the petitioner.

The petition is allowed.

It is ordered that the petitioner will be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court subject to his paying a bank draft of Rs.25 lacs in the name of Bank of Baroda to be adjusted towards the settlement of the account of the loan having been taken in the name of Riya Enterprises. The said amount may be considered as the amount paid to the Bank in discharge of the liability. It will be open to the Bank to give any relief to the complainant or the petitioner in the legal proceedings pending before any forum/Court.

At this stage, learned counsel for the petitioner has prayed for fixing two installments of Rs.15 lacs and Rs.10 lacs. The request is allowed. It is ordered that the petitioner will be released on bail on his depositing a bank draft of Rs.15 lacs in the name of the Bank of Baroda before the trial Court. The trial Court shall release the petitioner on fulfilling the above said condition on bail on execution of bail bonds/surety bonds by the petitioner subject to a condition that after release, the petitioner will pay another sum of Rs.10 lacs in the shape of bank draft in the name of the Bank by 26.07.2016.

In case, the total sum of Rs.25 lacs is not paid in two installments as undertaken hereinbefore, it will be open to the complainant to approach this Court for cancellation of the bail.

Nothing said in this order will prejudice the rights of the parties to amicably resolve the dispute regarding mortgage amount and the property.

Nothing said in this order will prejudice the right of the complainant as well as the Bank to recover the amount in accordance with law after adjusting the amount above said.

(M.M.S. BEDI)
JUDGE

May 26, 2016
harsha