

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1050 of 2016

Date of Decision: 01.03.2017

Sukhwinder Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. M.S. Bawa, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

SURINDER GUPTA, J.(Oral)

Present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No. 216 dated 05.11.2015 registered for offences punishable under Sections 406, 420, 465, 467, 468, 471 read with Section 120-B of Indian Penal Code (for short 'IPC'), at Police Station City Kharar, District SAS Nagar Mohali.

2. FIR was registered on the complaint of Baljit Singh son of Amar Singh, Branch Manager, Bank of India, Kharar Branch, wherein he stated that accused Aseem Banerjee, Sukhwinder Singh and Chander Bhan are partners of M/s Guru Sai Agencies, SCO No. 12-13, Basement, Bansa Wali Chungi, Kharar. Accused approached the bank for cash credit limit of ₹15 lacs for business purposes and Mrs. Jyanti Dass wife of Aseem Banerjee stood guarantor for the loan advanced to the firm. Bank accepted their request and granted cash credit limit of ₹15 lacs on 23.04.2013 on completion of requisite loan documents. Aseem Banerjee deposited original

sale deed bearing wasika no. 8816 dated 09.01.2013 concerning his residential house no. 339-C, Dashmesh Nagar, Kharar, measuring 4.33 marlas towards security for the loan amount. The accused did not adhere to financial discipline and an amount of ₹15 lacs was outstanding against them. It came to notice that Aseem Banerjee had earlier mortgaged the said house regarding which he deposited the sale deed with Union Bank of India, Phase-VI, Mohali, in January, 2013 with Union Bank of India. In order to cheat the bank he deposited a forged sale deed of his house to avail loan facility from the complainant-bank.

3. Learned counsel for the petitioner has argued that role of the petitioner in this case is that he was partner with Aseem Banerjee in a firm M/s Guru Sai Agencies. In fact the petitioner was also cheated and he intimated the police by moving application about 7-8 months prior to registration of FIR, bringing to the notice of police that Aseem Banerjee was a fraudster. Even earlier loan by mortgaging the house, purchased from petitioner, was taken from Union Bank of India by Aseem Banerjee. Petitioner, who has been bringing conduct of Aseem Banerjee to the notice of police vide representation on the basis of which DDR No. 1392 dated 27.08.2015 was registered and had also issued a legal notice dated 12.01.2015 through his counsel, is not a offender, rather a victim himself.

4. Learned State counsel has argued that the petitioner was a major share-holder in the firm M/s Guru Sai Agencies. It was with common intention and connivance of members of the firm the loan was taken and bank was cheated by submitting fake sale deeds. Intimation to the police regarding fraud by Aseem Banerjee was given by the petitioner only to create a defence for himself.

5. On giving a careful thought to submissions of learned counsel for parties, I find that the house, which was mortgaged with the bank, was in the name of Aseem Banerjee. Though, petitioner was one of the partners of firm M/s Guru Sai Agencies, however, it is yet to be proved as to whether he had any common intention or had conspired with Aseem Banerjee to cheat the bank by depositing the forged sale deed.

6. Keeping in view above facts but without expressing any opinion on the merits of the case, I find it to be a fit case to extend the benefit of anticipatory bail to the petitioner. Instant petition is allowed and order dated 12.01.2016 is made absolute till the presentation of challan, subject to the following terms:-

- (i) that the petitioner shall make himself available for interrogation by the police as and when required;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioner shall not leave India without the prior permission of the Court.
- (iv) that the petitioner will seek regular bail on the presentation of challan in Court.

March 01, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No