IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.27222 of 2016(O&M)
Date of Decision: 24.05.2017

Pardeep Kumar ......Petitioner

Versus

State of Punjab ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Mr. P.S. Ghuman, Addl, AG, Punjab.

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__RAJ MOHAN SINGH, J.__

[1]. Petitioner seeks anticipatory bail in case bearing FIR No.113 dated 11.09.2015 registered under Sections 419, 420, 465, 471, 120-B IPC at Police Station Division No.4, Jalandhar, District Jalandhar City.

[2], At the time of notice of motion, learned counsel for the petitioner submitted that petitioner is a Sales Executive and not performing the duties of Branch Manager. Thereafter, the petitioner was directed to join the investigation on the basis of his contention that he never withdrew any amount. The amount was withdrawn by one Shiv Kumar. The allegation against the petitioner was that he facilitated the aforesaid Shiv Kumar to open a bank account. The petitioner took every care and caution in terms of Know Your Customer (KYC) guidelines The prosecution projected a case that the petitioner facilitated

opening of a fake account by not properly verifying the antecedents of the account holder in terms of KYC guidelines.

[3]. Learned counsel for the petitioner submitted that as per requirement under the scheme, personal details, communication address, permanent address, customer profile, expected value of transaction in a month, for salary account, introduction by an existing ICICI bank account holder, important customer declaration with reference to payment details and Know Your Customer Document (KYC) are the necessary components which are to be filled up by the customer and verified by the Sales Executive/petitioner. Under the KYC guidelines, customer identification process is a mandatory requirement in which latest photographs, identity proof, proof of communication address, permanent account number and initial deposit by self cheque/cash are the necessary documents. Pan card issued by the Income Tax Department and Aadhaar Card issued by Unique Identification Authority of India are the acceptable documents under KYC scheme. Under customer verification process which is guided by the instructions of the bank with regard to opening of saving account in which place of meeting with the customer is either residence of the applicant, office of bank branch, which needs to be stated in KYC certification column of account opening form.

[4]. As per aforesaid process, the applicant/customer should be personally met by the bank official either at his residence or in the premises of the office or branch of the bank. Bank official should check the original documents and satisfy himself with regard to genuineness and validity of those documents as on date. The employee of the bank should verify and attest the documents so as to remove any doubt regarding tampering or overwriting on the documents. The applicant must self attest the photocopies of all the documents in the presence of the bank official. The documents are to be attested after verifying with the originals which are required to be submitted with account opening form as a part of document verification. All documents used must be photocopied and attached to the form with certification as "Verified with Original". The verifying official must put his name, employee number and signature on the copy submitted by the applicant.

[5]. The FIR was registered with the allegations that the complainant is a NRI. In 2009, he took one policy under insurance plan and paid the premium in time. Complainant was in need of money and in February 2015, he came to India and went to the company office for surrendering the policy. Branch Manager suggested him not to surrender the policy as he would be getting lesser amount. Since the complainant was in need of

money, therefore, he showed his willingness to surrender the policy. Branch Manager made excuses. Thereafter, the complainant again visited the office of the company on 27.02.2015 and stressed upon surrendering of the policy. Then he came to know that the policy has already been surrendered in August 2014 and the amount under the policy already stood transferred to Account No.027301522732 of ICICI Bank Branch Adarsh Nagar, Jalandhar, which was in the name of Shiv Kumar. The complainant never surrendered the policy as he was out of India during that period and he had never opened any account in ICICI Bank and never had any account in this bank. At the time of taking policy, complainant gave his Account No.071010100001427 of Axis Bank Ltd., Branch Phagwara. A fraud was committed by a person after getting the account opened in ICICI Bank with the name of the complainant and took away the policy amount of worth Rs.11,50,000/-. The fraud could not have been done by one person without involvement of the official of the company and bank. Original insurance policy was with the complainant and in the absence of the same, the policy could not be surrendered without original. Since it was a case of organized crime, therefore, FIR came to be registered.

[6]. Learned counsel for the petitioner by referring to account opening process submitted that the same was one of

the critical stages of account opening, in which meeting with the customer, filing of account opening form, collection of KYC document and certification/verification with the original are necessary activities at the instance of the official like the petitioner. After discharging the initial burden of documentation and verification of account opening person by the petitioner/Sales Executive, the assignment of Regional Processing Centre in respect of receipt of dispatch form to Regional Processing Centre and thereafter, process of scanning started after receiving dispatch through courier. This Regional Processing Centre is established under Participation Manual Volume-3 “Certificate Course in Sales Management”. By referring to different stages, learned counsel submitted that the subsequent stages referable to the stages meant for RPC Team. Scanning, checking of account opening form, address proof, online verification as online verification access online has been given to only RCU Team and thereafter, RCU Team take responsibility to do online verification of KYC documents. Learned counsel further submitted that alleged visit of the petitioner to the house of the imposter was on 20.05.2014 and the account was opened on 24.05.2014 and the amount was withdrawn on 31.07.2014.

[7]. Learned State counsel vehemently opposed the bail on

the ground that the petitioner has not acted in terms of mandatory guidelines, rather at his wrong verification, imposter opened account and took away the amount of the complainant in connivance with the petitioner. The petitioner had filled the relationship form contrary to the guidelines and had also given a KYC certification as per the practice with all the Sales Officials of ICICI Bank Ltd. Petitioner after alleged verification of I.D. proof and Aadhaar Card of the imposter also certified him being a witness. The petitioner had visited the residence of the said imposter as per the address given on the Aadhaar Card which was also found to be forged and had got the form filled at the said residence.

[8]. I have heard learned counsel for the parties.

[9]. The necessary column under KYC certification showed that the petitioner had met Shiv Kumar in person at his residence and confirmed that he had verified the copies of the identity and addressed documents against the originals as produced by the applicant. The documents allegedly verified by the petitioner were fabricated documents. The pleadings made by the petitioner himself in para No.9 of the petition would show that he allegedly verified the documents of imposter and gave the certification. The certification of documents of imposter on the basis of forged Aadhaar Card that too by visiting the alleged

residence of the imposter would raise issues to be determined by interrogating the petitioner in order to know complicity of others in the transaction. Petitioner was directed to join the investigation subject to the conditions as envisaged under Section 438(2) Cr.P.C, but he has not cooperated in the investigation as pointed out in the orders dated 30.11.2016 and 09.02.2017.

[10]. Taking note of the controversy involved viz-a-viz the role of the petitioner, I am of the view that the custodial interrogation of the petitioner is required in order to bring factual details to fore. This petition is accordingly dismissed.

[11]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

24.05.2017
prince

Whether Reasoned/Speaking **Yes/No**

Whether Reportable **Yes/No**