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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-29029-2017(O&M)

Date of Decision:- October 30th , 2017

Shish Pal

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Anmol Rattan Sidhu, Senior Advocate,
with Mr. Pratham Sethi, Advocate,
for the petitioner.

Mr. Satish Saini, DAG, Haryana
for the respondent State.

Mr. D.K.Gupta, Advocate.
for the complainant – Punjab National Bank

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SHEKHER DHAWAN, J.

Present petition under Section 439 Cr. P.C., for grant of regular bail in case bearing FIR No.339 dated 31.10.2015 registered under Sections 406, 420, 467, 468, 471 read with Section 120-B IPC at Police Station Taraori, District Karnal.

2 Learned counsel for the petitioner contended that the petitioner is only a guarantor and he has been falsely implicated in this case. Initially, the firm had taken a loan of Rs.30.00 lakhs from the complainant -bank and equitable mortgage of agricultural land was created in favour of the bank, which is in the custody of the complainant-bank. The bank has already started proceedings for auction of the said land in order to effect the recovery. The dispute *inter se* the parties is of civil nature.

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3. Further contention is also raised that the petitioner is a physically challenged person and is a chronic disease patient of diabetes besides suffering from heart disease and had suffered heart-attack in the month of May, 2017.

4. Learned counsel for the petitioner further contended that the petitioner has already been released by this Court in another FIR of similar nature bearing No. 341 dated 3.11.2015 registered under Sections 406, 420, 467, 468, 471 read with Section 120-B IPC at Police Station Taraori, District Karnal, vide orders dated 23.10.2017 passed in CRM-M-38027-2017. The petitioner is in custody since 28.06.2017 in this case and challan has already been presented and the trial of the case still to take some more time. No useful purpose would be served by detaining the petitioner in custody. So, he be released on bail.

4. Learned State counsel as well as learned counsel representing the complainant – bank opposed the present application on the ground that the petitioner had cheated the bank and huge amount is involved. There is no ground to release the petitioner on bail.

5. Having considered the submissions made by learned counsel for the parties and the facts that the petitioner is in custody since 28.06.2017 and challan has already been presented; petitioner is only a guarantor and the mortgaged property is already with the bank; separate proceedings are also going on for recovery of the amount under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act); and nature of lis *inter se* the parties is primarily civil in nature, without expressing any opinion on the merits of the case, *least* may not cause prejudice to either of the parties, and trial of the case still to take some more time, the petitioner is ordered

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to be released on bail on his furnishing bail/surety bonds to the satisfaction of CJM/Area Magistrate, Karnal.

The petition stands allowed.

October 30, 2017
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(SHEKHER DHAWAN)
JUDGE

Speaking/Reasoned
Reportable

Yes
No