IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-11292-2018
Date of decision: 26.10.2018

Tarsem Singh ...**Petitioner**

Versus

State of Punjab ...**Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vikas Bishnoi, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, DAG, Punjab.

ARVIND SINGH SANGWAN, J. *(Oral)*

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 91 dated 14.10.2017, under Sections 420, 465, 467, 468, 471, 120-B of the IPC, registered at Police Station City Mansa, District Mansa.

Learned counsel for the petitioner submits that on the similar set of allegations, another FIR No. 24 dated 24.02.2017, under Sections 420, 465, 467, 468, 471 and 120-B of the IPC was registered and while granting regular bail to the petitioner in the said FIR, the following order was passed on 14.12.2017 in CRM-M-45219-2017:

> **"By this common order, above said all the petitions would be disposed of. Petitioners seek grant of regular bail in the following FIRs:-**

Sr. No.	*Name of the petitioners*	*Particular of FIR in which regular bail is being sought*
1	**Tarsem Singh**	**FIR No.24 dated 24.02.2017, under Sections 420, 465, 467, 468, 471, 120-B of Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Sardulgarh, District Mansa.**

Sr. No.	*Name of the petitioners*	*Particular of FIR in which regular bail is being sought*
2	**Avtar Singh**	**FIR No.81 dated 26.08.2016, under Sections 420, 465, 467, 471, 120-B of IPC, registered at Police Station Sardulgarh, District Mansa.**
3	**Harjeet Singh**	**FIR No.82 dated 26.08.2016, under Sections 420, 465, 467, 471, 120-B of IPC, registered at Police Station Sardulgarh, District Mansa.**
4	**Surjit Singh**	**FIR No.98 dated 23.10.2016, under Sections 420, 465, 467, 471, 120-B of IPC, registered at Police Station Sardulgarh, District Mansa.**

The complainant-Prashant Maheshwari, Manager, HDFC Bank Limited lodged complaint with the police regarding fraud, cheating and forgery with HDFC Bank Limited. The sum and substance of the complaint that was lodged was that all the petitioners who are borrowers of the loans from the said Bank for Kisan Gold Card Scheme (Agriculture Loan) way back in December 2013 had furnished the documents for mortgage in respect of properties and obtained agriculture loans from the Bank. It is further alleged that the employees of the said Bank in collusion with the petitioners-borrowers had proceed the grant of loans to the petitioners-borrowers acting on the forged and fraudulent documents in respect of the landed properties. Acting on such fabricated documents, the loans were given by the officers of the Bank without verifying the properties but acting on the forged and fabricated documents submitted by the petitionersborrowers. HDFC Bank Limited stated that as a result of this fraud and forgery committed by the bank officers along with the petitionersborrowers, Bank was put to severe loss in lakhs of rupees. Pursuant to the said FIR being lodged, the investigation was taken up and these petitioners were arrested and thereafter, put in jail. Following chart shows the name of the petitioners and the date of their arrest:-

Sr. No.	*Name of the petitioners*	*Date of arrest*
1	Tarsem Singh	15.07.2017
2	Avtar Singh	14.10.2016
3	Harjeet Singh	11/10/16
4	Surjit Singh	14.11.2016

Thus, these petitioners have been in jail since the date of their respective arrest and have been seeking now regular bail in the present petitions. Learned counsel for the petitioners-borrowers submit that the petitioners-borrowers are not at all at fault and as a matter of fact, the agents as well as HDFC Bank Limited officers themselves conspired and used the petitioners-borrowers for commission of fraud. As a matter of fact, according to learned counsel for the petitionersborrowers, after the disbursement of loans, huge amounts were taken by withdrawal by the officers of the Bank themselves from the petitioners-borrowers who are illiterate farmers. The petitionersborrowers were thus, actually utilized by the Bank officers and agents but they have now landed in jail. The investigation, according to the learned counsel for the petitioners, has been completed and the trial will take its own time. They, therefore, prayed for grant of regular bail to all the petitioners. Learned counsel for the complainant vehemently opposes the plea for regular bail and submits that the petitioners-borrowers were responsible for submitting forged and fabricated documents to the HDFC Bank Limited, though, it is true that the officers of the Bank accepted those documents and thereafter, released agriculture loans to these farmers. Learned counsel submits that, though, the incident had taken place in the year 2013, factum of the matter is that the petitioners-borrowers are responsible for fabrication of documents and therefore, regular bail should not be granted to them. Learned State counsel also supports the submissions and opposes grant of regular bail to the petitioners. Having heard learned counsel for the rival parties at length, what I find is that the period in relation to the loans in respect of which fraud and forgery is alleged to have committed relates to December 2013 to February 2014. It is the case of the HDFC Bank Limited itself that the loans were disbursed by the officers of the Bank acting on the forged and fabricated documents. From the very submission of the counsel for the complainant-HDFC Bank, it is

> **clear that had the officers of the Bank not colluded or committed fraud in the matter of disbursement of loans acting on the alleged forged and fabricated documents, the Bank would not have lost its money. Primarily, therefore, the officers of the Bank are to be blamed. It may be that the borrowers had also signed the documents for obtaining loans and submitted documents, but at the same time, it cannot be forgotten that the petitioners are all farmers and the possibility of illiterate farmers like the petitioners-borrowers being influenced and attracted by the Bank officers and the agents to do so cannot be ruled out. At any rate, no useful purpose would be served in continuing their detention in jail as the trial is bound to take its own time. The case is triable by the Magistrate. There is no guarantee that the trial will be completed within short period. In that view of the matter, looking to the dates of arrest of the petitioners and the incident of the period from December 2013 to February 2014, I am inclined to grant regular bail to the petitioners. Hence, all these petitions, i.e. CRM-M-45219 of 2017, CRM-M-2750 of 2017, CRM-M-326 of 2017 and CRM-M-23673 of 2017 are allowed. Petitioners shall be released on bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. Petitioners shall file undertaking before the trial Court that they would not commit similar or any other kind of offence in future. Petitioners shall surrender their passport, if possess, with the trial Court. Petitioners shall not tamper, influence and threaten the prosecution witnesses and complainant as well.**
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> **Sd/- A. B. Chaudhari, Judge"**

Learned counsel for the petitioner further submits that in the present case, the petitioner is in custody since 29.11.2017; challan stands presented and the offences are triable by the Court of a Magistrate and till date, even charges have not been framed.

Learned State counsel, on instructions from the Investigating Officer, has not disputed the aforesaid facts.

I have heard learned counsel for the parties.

Without commenting anything on merits of the case and considering the facts that petitioner has already been granted concession of regular bail in aforesaid FIR No. 24; the petitioner is in judicial custody since 29.11.2017 and also considering the fact that conclusion of the trial will take a long time as the same is at the initial stage, this petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate concerned.

October 26, 2018 **(ARVIND SINGH SANGWAN)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*