

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) CRM No.M-11672 of 2017 (O&M)

Tara Chand Uppal ...Petitioner

VERSUS

State of Punjab ...Respondent

(ii) CRM No.M-11978 of 2017 (O&M)

Mohan Lal ...Petitioners

VERSUS

State of Punjab ...Respondent

(iii) CRM No.M-16956 of 2017 (O&M)

Vicky Kumar ...Petitioners

VERSUS

State of Punjab ...Respondent

(iv) CRM No.M-19484 of 2017 (O&M)

Anita ...Petitioners

VERSUS

State of Punjab ...Respondent

(v) CRM No.M-19837 of 2017 (O&M)

Amibika Devi ...Petitioners

VERSUS

State of Punjab ...Respondent

(vi)

CRM No.M-28512 of 2017 (O&M)

Gurbachan Kaur

...Petitioners

VERSUS

State of Punjab

...Respondent

Date of Decision: August 28, 2018

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.S.S.Narula, Advocate
for the petitioner (in CRM No.M-11672 of 2017).

Mr.R.S.Randhawa, Advocate
for the petitioner (in CRM No.M-11978 of 2017).

Mr.Vikasdeep Singh, Advocate for the petitioners
(in CRMs No.M-16956, 19484 and 19837 of 2017).

Mr.Sandeep Arora, Advocate
for the petitioner (in CRM No.M-28512 of 2017).

Ms.Monika Jalota, DAG, Punjab
for the respondent-State.

Mr.Anil K. Ahuja, Advocate
for respondent No.2 (in CRM No.M-11672 of 2017).

INDERJIT SINGH, J.

All the above-mentioned cases are taken up together as these
have arisen from same FIR.

Petitioners have filed these petitions under Section 438 Cr.P.C.
for grant of anticipatory bail in case FIR No.05 dated 09.03.2017 under
Sections 409, 420, 467, 468, 471, 120-B IPC read with Section 13(1)(d) and

13(2) of the Prevention of Corruption Act, registered at Police Station Vigilance Bureau, Jalandhar.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petitions. Learned State counsel has also filed reply by way of affidavit of DSP, Vigilance Bureau, Kapurthala, which is taken on record.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The FIR in the present case has been registered after the vigilance enquiry. As per the enquiry, in 14 loan files pertaining to the period from 01.05.2013 to 20.04.2016, embezzlement of ₹3.71 crores has been unearthed. From the enquiry of all agriculture loans/limits from 01.05.2013 to 30.04.2016, embezzlement of about ₹15.83 crores came to the light. As per the allegations, the loans were granted on fake fards issued by Fard Kendar and online record of the Fard Kendar has been tampered with by officers/officals of the bank. Despite being not owners of the land, by showing private persons as owners and on the basis of fake revenue record and the report given by Tara Chand Uppal panelled Advocate of the bank, loans were sanctioned and fraud has been committed.

Petitioner Mohan Lal is Naib Tehsildar. The allegation against him is that he registered three mortgage deeds on the basis of fake documents and also entered one mutation in the name of private persons regarding the government land, on the basis of which, mortgage deed was executed. Learned State counsel argued that petitioner Mohan Lal has not verified from the revenue record and relied upon the fake documents and

Qua petitioner Vicky Kumar, Municipal Councillor, the allegations is that he identified bogus vendors and signed as a witness on the mortgage deed which was executed by impersonation. Petitioner Anita is wife of Tilak Raj, main accused and petitioner Amibika Devi is mother of Tilak Raj and obtained loans on the basis of fake documents etc.

Petitioner Gurbachan Kaur, who was owner of 1 kanal 5 marlas of land, on the basis of fake jamabandi, showing her ownership of 85 kanals, obtained loan of ₹30 lakhs.

Keeping in view the serious allegations against these petitioners of committing fraud and borrowing loans on the basis of forged documents and further executing mortgage deeds on the basis of fabricated documents, I do not find it a fit case, where these petitioners are entitled to benefit of anticipatory bail. Rather, they are required for custodial interrogation. Therefore, the petitions filed by petitioners Mohan Lal, Vicky Kumar, Anita, Amibika Devi and Gurbachan Kaur are dismissed. The orders granting them interim bail stand vacated.

As regarding petitioner Tara Chand Uppal, the allegation is that he was a panelled Advocate and he gave legal opinion and has not verified the actual revenue record.

Learned counsel for petitioner Tara Chand Uppal contended that petitioner Tara Chand Uppal is not supposed to verify the original record. On the basis of the record which is sent to him for verification and jamabandi etc., which were issued by the Fard Kendra, he gave the report. Learned counsel for the petitioner also cited the judgment passed by the Hon'ble Supreme Court in ***Central Bureau of Investigation, Hyderabad vs.***

Advocate who give legal opinion on basis of documents placed before him by Bank cannot be held criminally liable on the ground that he gave false facts. The above cited judgment fully applies to the facts of the present case. Otherwise also, there is no allegation against Tara Chand Uppal that he embezzled any amount or he connived with any bank official or private person.

The petitioner has already joined the investigation. He is not required for investigation or custodial interrogation. No useful purpose will be served by sending the him to custody.

Keeping in view the law cited above and in view of the fact that petitioner Tara Chand Uppal has only given legal opinion to the bank on the basis of documents, I find it a fit case, where the petitioner is entitled to benefit of anticipatory bail. Therefore, petition filed by petitioner Tara Chand Uppal is accepted and the order dated 26.04.2017 granting interim bail to him, is made absolute.

Resultantly, CRM No.M-11672 of 2017 stands allowed whereas CRMs No.11978, 16956, 19484, 19837 and 28512 of 2017 stand dismissed.

However, nothing stated above, shall constitute my opinion on merits of the case.

August 28, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No