IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM No. M-13533 of 2017 (O&M)
Date of Decision: 28.02.2018

Sahil Gorwara

... Petitioner

Versus

Union Territory, Chandigarh

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. J.S.Bedi, senior Advocate with
Mr. Rubal Garg, Advocate and
Mr. Harneet Oberoi, Advocate,
for the petitioner.

Mr. Sukant Gupta, Addl. P.P. U.T., Chandigarh.

Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Sandeep Suri, Advocate and
Mr. Raghav Gulati, Advocate,
for the complainant.

TEJINDER SINGH DHINDSA, J.

Instant petition has been filed under Section 439 Cr.P.C. seeking regular bail to the petitioner pending trial in case FIR No.12 dated 01.02.2016, under Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station Sector-3, Chandigarh.

Briefly noticed FIR in question was registered on the complaint of Chief Manager, ICICI Bank, Sector-9-C, Chandigarh and as per which in an internal inquiry conducted by the Bank the case of cheating, fraud and forgery of documents has come to light by M/s. Arvind Trade Links Private Limited (for short 'ATLPL') of which Arvinder Singh Gorwara (since deceased), Daljit Kaur

Gorwara and the present petitioner were the Directors. Allegations are that the three accused aforementioned entered into a conspiracy to defraud ICICI Bank of crores of rupees.

As per complaint, ATLPL was incorporated in the year 2010 and had its registered office at Plot No.106, Village Pabhat, Zirakpur, having acquired all the assets and liabilities from Laxmi Sales Agency, a family owned business of trading in foundry chemicals since the year 1994. ATLPL was having a banking relationship with the then State Bank of Patiala at Dera Bassi, Punjab for a fund based working capital of Rs.3.75 crores and a term loan facility of Rs.1.4 crore with an outstanding amount of Rs.96 lacs as on 07.08.2013. The loan is stated to have been taken over by the ICICI Bank in the month of August, 2013.

Precise allegations are that ATLPL having defaulted on its loan repayment obligations to ICICI Bank since 30.06.2014, an inquiry conducted by ICICI Bank revealed that the bank statements of ATLPL account held by State Bank of Patiala provided by the said company had been forged and fabricated. The documents were not on standard bank stationary and did not have authentication of the concerned bank.

Further more fictitious transactions of several deposits and payments were shown in the statement with the ulterior objective by showing a regular operative account whereas actually there was an overdrawn balance of Rs.3.89 crores. Complainant ICICI Bank alleges that the loan take over was facilitated by the accused including the present petitioner on the strength of forged and fabricated documents.

Petitioner was arrested on 21.01.2017.

Learned counsel representing U.T. Chandigarh as also senior counsel representing complainant Bank would vehemently oppose the instant petition by contending that the petitioner is a habitual offender and is involved in five other FIRs carrying similar allegations. Details of such FIRs furnished by counsel for the respondents are as follows:-

i) FIR No.92 dated 19.05.2014 at PS Haroli, District Una (Himachal Pradesh), under Sections 420, 468, 471 and 120-B IPC;

ii) FIR No. 230 dated 30.08.2014 at PS Dera Bassi, District Mohali (Punjab), under Sections 406, 420, 120-B IPC;

iii) FIR No.295 dated 05.11.2014 at PS Kapurthala City, District Kapurthala (Punjab), under Sections 406, 420, and 120-B IPC;

iv) FIR No.279 dated 10.10.2015 at PS Haroli, District Una (Himachal Pradesh), under Sections 379, 380, 406, 418, 420, 421, 422, 467, 468, 471, 477, 477-A and 120-B IPC;

v) FIR No.23 dated 07.10.2015, registered at CBI Chandigarh, under Sections 420, 467, 468, 471, 120-B IPC and Sections 13 (1) (d) and 13 (2) Prevention of Corruption Act 1988.

That apart it is submitted that Amrinder Singh Gorwara i.e. brother of the present petitioner was an accused in FIR No.230

dated 30.08.2014, registered at Police Station Dera Bassi, District Mohali, under Sections 406, 420 and 120-B IPC and has been declared a proclaimed offender and it is believed that he has fled abroad. Counsel argued that there would be a high possibility and suspicion that the present petitioner if granted benefit of bail would also flee the country. While opposing the bail petition, it has also been argued that the present petitioner had signed the loan documents as also the account opening form of ATLPL in his capacity as Director of the Company at the stage of availing of loan facilities from State Bank of Patiala.

Counsel for the parties have been heard.

Petitioner has faced incarceration for a period in excess of 01 year.

Investigation in the case is complete and the challan has been presented. Even though charges have been framed but the trial is at the very initial stage and would take time to conclude.

In the affidavit placed on record of the Superintendent of Police (Operations), Chandigarh Police, it stands conceded that the complainant ICICI Bank has already taken possession of the commercial building of ATLPL at Village Pabhat, Zirakpur.

Learned counsel representing U.T. Chandigarh has apprised the Court that investigation towards the aspect of connivance of certain officials of ICICI Bank itself is under way and a supplementary charge-sheet may be filed against one Naveen Gautam, bank official and other officials under the relevant Provisions of Law including Banking Regulation Act, 1949 and

Indian Penal Code 1860.

Such submission is a clear indicator that there are chances of certain other persons including bank officials being arraigned as co-accused and which would further prolong the trial.

As regards the petitioner being involved in other cases and being a habitual offender, learned senior counsel has joined issue and has submitted that the petitioner is on bail in four of the FIRs aforenoticed and in one FIR i.e. 279 dated 10.10.2015, registered at Police Station Haroli, District Una, Himachal Pradesh cancellation report has been prepared by the investigating agency.

Such assertion on behalf of the petitioner has not met with any rebuttal by counsel representing the respondents.

It is the contention of the senior counsel that even though petitioner in the capacity of Director of ATLPL had signed the loan documents at the stage of availing loan/credit facilities from State Bank of Patiala but in the final investigation report no evidence has been collected as regards the role played by the petitioner pertaining to the alleged forged documents at the stage of take over of loan by ICICI Bank in August, 2013.

Offences are triable by the Court of Magistrate.

In view of the discussion above, coupled with the length of incarceration already suffered by the petitioner and without making any observations on merits, petitioner is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to satisfaction and imposition of stringent conditions by the trial Court including directing the petitioner to surrender his passport.

Petition disposed of.

28.02.2018 **(TEJINDER SINGH DHINDSA)**
vandana **JUDGE**

Whether speaking/reasoned Yes
Whether Reportable No