IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.22001 of 2018
Decided on: 01.08.2018

Tara Chand

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Salil Dev Singh Bali, Advocate for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

Mr. Harsh Chopra, Advocate for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.244 dated 25.03.2016, for offence punishable under Sections 120-B, 406, 420, 467, 468, 471 of the Indian Penal Code (in short 'IPC') (Section 419 IPC added later), registered at Police Station City Hisar, District Hisar.

Counsel for the petitioner has submitted that the petitioner is the employee of one Deewan Housing Finance Corporation (in short 'DHFC') and as per the allegation in the FIR, which was got registered by DHFC, it is alleged that co-accused namely Vinod Kumar and Monika had applied for obtaining a loan against the property. The loan documents and the documents of title of the property were verified by one Rakesh Bahar, Advocate and, thereafter, the same were re-verified by 03 employees of DHFC namely Tara Chand (the present petitioner), Umesh Sharma and Rajiv Mehta. The complainant, on completion of all the formalities, sanctioned the loan against mortgaged property and disbursed the amount in the account of one Jagdish, who was the proposed seller. It is further stated in the FIR that, later on, it came to the notice of the complainant – DHFC that the sale deed produced by accused Vinod Kumar and Monika was a fake document and the account opened in the name of Jagdish was also in the name of a fake person (Jagdish).

Counsel for the petitioner has referred to the order dated 04.05.2018 vide which 02 anticipatory bail applications filed by the co-accused namely Ashish Bansal and Vinod Kumar were dismissed and the regular bail of the co-accused Rajesh, was allowed. The operative part of the order is reproduced as under:-

> *"Counsel for the petitioner submits that in the FIR, which is got registered by Deewan Housing Finance Corporation Limited (DHFC), it is alleged that co-accused, namely, Vinod Kumar and Monika had applied for obtaining a loan against the property. The loan documents and the documents of title of the property were verified by one Rakesh Bahar, Advocate and, thereafter, the same were re-verified by three employees of complainant-corporation, namely Tara Chand, Umesh Sharma and Rajiv Mehta. The complainant, on completion of all the formalities, sanctioned the loan against mortgaged property, and disbursed the amount in the account of one Jagdish, who was the proposed seller. It is further stated in the FIR that later on, it came to the notice of the complainant-corporation that the sale deed produced by accused Vinod Kumar and Monika was a fake document and the account opened in the name of Jagdish*

was also in the name of a fake person (Jagdish).

Counsel for the petitioner submits that the petitioner is neither named in the FIR nor any allegation has been levelled against him. Moreover, the petitioner also not the beneficiary of the loan transaction.

The petitioner was granted interim bail, vide order dated 23.02.2018 and he was directed to join the investigation.

CRM-M-11572-2018

Prayer in this petition is for grant of anticipatory bail to petitioner-Vinod Kumar in case FIR No.244 dated 25.03.2016 under Sections 406/420/467/468/471 and 120-B of IPC (Section 419 IPC was added later on), registered at Police Station Hisar City, District Hisar.

Counsel for the petitioner submits that the petitioner though had approached the complainant-company for granting him loan but the loan was never disbursed to him and the complainant has wrongly alleged that the same was disbursed to the petitioner on 25.02.2015, whereas the alleged forged sale deed was given to the complainant-company on 03.04.2015 and no amount was credited in the account of the petitioner.

It is further stated that the Manager of the complainant-company, namely Umesh Sharma, in conspiracy with co-accused Ashish Bansal obtained a cheque of Rs. 20 lacs in the name of a fictitious person Jagdish and Umesh Sharma and Ashish Bansal are hand in glove with each other and in conspiracy with each other have usurped an amount of Rs.20 lacs. It is further stated that one of the co-accused, Rajesh, was arrested on 08.09.2017 and he made a disclosure statement that he came in contact with Ashish Bansal in January 2015 for seeking an auto loan and on his asking he represented himself to be Jagdish son of Ghansham, and opened the *account with Indian Overseas Bank by posing himself as Jagdish, and for this purpose, Ashish Bansal assured him that he will get an amount of Rs.25,000/-. Co-accused Ashish Bansal opened the account of accused Rajesh in the name of Jagdish and took away the pass-book and cheque book by obtaining the signatures of accused Rajesh and gave him Rs. 10,000/- in cash.*

CRM-M-491-2018

Prayer in this petition is for grant of regular bail to petitioner-Rajesh in FIR No.244 dated 25.03.2016 under Sections 420/406/467/468/471 and 120-B of IPC (Section 419 IPC was added later on), registered at Police Station Hisar City, District Hisar.

Counsel for the petitioner submits that the petitioner is in judicial custody since 08.09.2017 and investigation qua him is complete and he is no more required for further investigation. It is further submitted that in fact the petitioner, contacted co-accused, Ashish Bansal, for the purpose of purchasing an auto and in order to avail auto loan, opened the bank account in Indian Overseas Bank on allurement given by Ashish Bansal. It is further stated that the petitioner is a very less educated person and has signed the documents on the asking of co-accused Ashish Bansal and was paid only Rs. 10,000/- for fulfilling the loan documents.

In the petition filed by Rajesh, on 06.03.2018, the learned State counsel, on instructions from the Investigating Officer, has stated that there was a conspiracy between the employees of complainant-corporation and specimen signatures of petitioner-Rajesh have been sent to FSL for comparison with his handwriting on the cheques, vide which the amount of Rs.20 lacs was withdrawn. The Branch Manager, Indian Overseas Bank, who was also present in the Court on

06.03.2018, stated on that day that when the account was opened in the name of Jagdish (a fake person), the voters identity card and driving license, which were submitted for opening the bank account, had the photographs of petitioner-Rajesh.

A direction was issued to the Superintendent of Police, Hisar to constitute a Special Investigation Team (SIT) to conduct further investigation and submit the status report. It was also directed that it will be open for the SIT to summon Ashish Bansal to join the investigation.

The status report by way of affidavit of DSP, (L&O), Hisar has already been filed. It is stated in the report that Ashish Bansal was given a notice under Section 160 Cr.P.C. on 23.03.2018, but he failed to join the investigation. Even on an earlier occasion when Ashish Bansal was directed to appear before the Investigating Officer on 28.02.2018 at 10:00 A.M. to give his handwriting/signatures for investigation, he failed to join.

It is further submitted that it has come in the disclosure statement of Rajesh that the entire amount of Rs. 20 lacs from the fake account of Jagdish has been withdrawn by Ashish Bansal and he failed to appear before the Investigating Officer. Even the Members of SIT has given numerous telephonic calls on his mobile number i.e. 98123-22600 and despite making assurance, he did not turn up to join the investigation.

It is further stated in the affidavit that two of the co-accused i.e. Umesh Sharma and Tara Chand, both employees of the complainantcorporation, were arrested on 23.03.2018 and in their disclosure statements also, they have named Ashish Bansal, as an accused.

It is further stated in the FIR that complainant-corporation has informed the SIT that as per NHB Mandate Guidelines, circular dated 21.06.2005 (copy *annexed as Annexure R2 with the affidavit), the loan amount was credited in the account of seller directly i.e. in the account of Jagdish as the loan was applied by accused Vinod Kumar and Monika by posing a fake seller of the house, named, Jagdish and on their request, the amount was credited in his account, as per the request form (attached as Annexure R3 with the affidavit).*

It is further stated that during the course of investigation by the SIT, it is found that the documents submitted to the Indian Overseas Bank for opening the account in the name of Jagdish, are found to be forged and fake documents as in place of Jagdish, the photographs of accused Rajesh were affixed. It is further submitted that the investigation is still under progress and till the accused Ashish Bansal is arrested, the investigation cannot reach at a concrete conclusion and, therefore, custodial interrogation of accused Ashish Bansal is necessary. It is further stated that accused Ashish Bansal is also involved in five other cases which are detailed as below:-

> *"1.FIR No. 259/16 u/s 420,406,467,468,471,120-B IPC PS City Hisar*
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> *This case was registered on the complaint of Jiwan Dass Garg, Legal Manager, Diwan Housing Finance Corporation Ltd. Red Sequare Market Hisar against accused Ashish Kumar Bansal son of Bhagwan Dass etc. levelling allegations therein for taking loan amounting to Rs.5272094/- on forged and fabricated documents. The petitioner has not joined the investigation so far.*
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> *"2.FIR No. 269/16 u/s 420,406,467,468,471,120-B IPC PS City Hisar.*
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> *This case was registered on the complaint of Jiwan Dass Garg, Legal Manager, Diwan Housing*

Finance Corporation Ltd. Red Sequare Market Hisar against accused Ashish Kumar Bansal son of Bhagwan Dass etc. levelling allegations therein for taking loan amounting to Rs.4760774/- on forged and fabricated documents. The petitioner has filed CRM No. 10038 of 2018 for anticipatory bail in this Hon'ble High Court which has been dismissed vide order dated 02.04.2018.

"3. FIR No. 434/15 u/s 420,467,468,471 IPC PS City Jind.

This case was registered on the complaint of Kirshan Kumar son of Tara Chand r/o Majra, PS Narnaund, District Hisar against accused Ashish Kumar Bansal son of Bhagwan Dass etc. leveling allegations therein for getting sanctioned loan from HDFC Bank Jind in conspiracy with the employees of bank after preparing forged and fabricated documents. During course of investigation the duplicate seal etc. have been recovered from him/accused. The case is under investigation.

"4. FIR No. 39/16 u/s 420,406,467,468,471 and 120-B IPC PS City Jind.

This case was registered on the complaint of Anubhav Pasricha son of Avtar Pasricha r/o Hamani Tawer 2nd Floor, GT road HDFC Bank Panipat against accused Ashish Kumar Bansal son of Bhagwan Dass etc. leveling allegations therein for getting sanctioned loan from HDFC Bank Panipat in conspiracy with the employees of bank after preparing forged and fabricated documents. He/ the petitioner has sought anticipatory bail application and thereafter joined the investigation. During investigation he deposed that the bogus seal etc. have also been recovered from him in case FIR

No. 434/15 PS City Jind. The case is under investigation.

"5. FIR No. 46/16 u/s 420 IPC PS City Jind.

This case was registered on the complaint of Jitender son of Nanak Chand r/o Shiv Colony Jind, Distt. Jind against accused Ashish Kumar Bansal son of Bhagwan Dass etc. leveling allegations therein for getting sanctioned loan from Punjab and Sind Bank, Jind amounting to Rs. 10,00,000/- in conspiracy with the employees of bank after preparing forged and fabricated documents".

Learned State counsel, on the basis of affidavit giving the status of the investigation by the SIT, has prayed for dismissal of the petitions.

In reply, counsel for the petitioner-Ashish Bansal has submitted that in 02 FIRs, the petitioner has been granted concession of regular bail by this Court; in 02 FIRs, he has been acquitted; and in 01 FIR, he is not named directly by the complainant.

After hearing learned counsel for the parties, I find no merit in the petitions filed by petitioners-Ashish Bansal and Vinod Kumar praying for grant of anticipatory bail.

Petitioner-Ashish Bansal, despite of granting two specific dates to join the investigation, has failed to join the investigation and to give his specimen signatures/handwriting, as the accused Rajesh has stated in his disclosure statement that the amount was withdrawn by Ashish Bansal. Even in the disclosure statements of two co-accused i.e Umesh Sharma and Tara Chand, who are employees of complainant-corporation, the name of petitioner-Ashish Bansal has surfaced. The SIT has specifically stated in the status report that custodial interrogation of Ashish Bansal is required to reach at a conclusion about the manner, the documents were forged *and the complainant was cheated of Rs.20 lacs and, therefore, I find no ground to grant anticipatory bail to petitioner Ashish Bansal.*

So far as the petitioner Vinod Kumar is concerned, he is the person who alongwith co-accused Monika has applied for the loan knowingly that the proposed seller Jagdish is a fake person and further made an application (Annexure R3) before the complainant-corporation that the loan amount be credited in the account of Jagdish (a fake person) and, therefore, the active involvement of petitioner-Vinod Kumar with coaccused Monika is apparent in the investigation. It is found that the fake account in the name of Jagdish was opened by producing co-accused Rajesh posing him as Jagdish. Therefore, I do not find any merit in the petition filed by Vinod Kumar for grant of anticipatory bail.

So far as the regular bail petition filed by co-accused Rajesh is concerned, as per the investigation conducted, it appears that he wanted to obtain a small loan for the purpose of purchasing an Auto and taking advantage of his immediate requirement, accused Ashish Bansal, Vinod Kumar and Monika, in conspiracy and connivance with the employees of complainant-corporation, by alluring him to give Rs. 25, 000/- used him as a tool to open a fake account in the name of Jagdish by pasting his photographs on the IDs and application form.

Even as per the investigation, so far conducted by SIT, it is stated that custodial investigation of Ashish Bansal and Vinod Kumar is required to reach at a final conclusion.

In view of the same, since petitioner-Rajesh is in judicial custody since 08.09.2017 and the investigation qua him is completed and he is not required for any further investigation, petitioner-Rajesh is granted

> *concession of regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Illaqa Magistrate.*
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> *However, it is directed that it will be open for the Investigating Agency/SIT to summon Rajesh for further investigation, if required, in the event of arrest of other co-accused, petitioner-Rajesh will join the investigation on receiving such notice by the Investigating Officer. In case, petitioner-Rajesh fails to join the investigation, it will be open for the Investigating Officer to apply for cancellation of regular bail granted to petitioner-Rajesh.*
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> *In view of the above, CRM-M-4464-2018 (filed by Ashish Bansal) and CRM-M-11572-2018 (filed by Vinod Kumar) praying for anticipatory bail are dismissed and CRM-M-491-2018 (filed by Rajesh) is allowed."*

Counsel for the petitioner has further submitted that the petitioner is in judicial custody since 24.03.2018 and as per the investigation, conducted by the Special Investigating Team, before the petitioner had verified the documents, submitted by co-accused – Vinod Kumar, the same were verified by co-accused namely Umesh and one Rakesh Bahar, Advocate and the valuation of the property was done by one Ajay Mittal (who is not arrayed as an accused). It is further submitted that the petitioner was working as a Business Development Executive and is not a direct beneficiary and has acted in performance of his duty. It is also submitted that the investigation in the case is already complete, challan has been presented and it will take some time in conclusion of the trial as the offences are triable by the Court of Magistrate.

Counsel for the State, on instructions from SI Harpal

Singh, assisted with counsel for the complainant has submitted that as per the investigation, the documents, which were submitted by Vinod Kumar were verified by the petitioner and later on, in the investigation the same were found to be fake documents, prepared by co-accused namely Vinod Kumar and, therefore, the petitioner while verifying the same has not acted with due diligence and has approved the sanctioning of the loan to the main accused. It is further argued that the main accused namely Vinod Kumar, Monika, Ashish Bansal and one Rajiv Mehta are absconding and have not been arrested so far.

Without commenting anything on merits of the case and considering the fact that the petitioner is in judicial custody for the last 4 ½ months; challan has been presented and there is no direct allegation of any illegal benefit taken by the petitioner and also in view of the fact that conclusion of the trial will take some time as the offences are triable by the Court of Magistrate, this petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/ surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

01.08.2018
yakub

Whether speaking/reasoned Yes/No

Whether reportable: Yes/No