IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.208-A

CRM-M-30569-2018
Date of decision : 10.10.2018

Sarabjit Singh ..... Petitioner

VERSUS

State of Haryana ..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Yogesh Goel, Advocate, for the petitioner.

Mr. Nishchal Mann, DAG, Haryana.

Mr. Banni Thomas, Advocate, for the complaint-Bank.

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SUDHIR MITTAL, J. (Oral)

The petitioner seeks regular bail in case FIR No.93 dated 01.03.2018, registered at Police Station Ambala Cantt., District Ambala, under Sections 120-B, 420, 467, 468, 471 IPC.

The FIR has been registered on the complaint filed by the State Bank of India, Football Chowk Branch, Ambala Cantt. The allegations contained therein are that the petitioner and his wife made an application for grant of a home loan to purchase a property from one Vishal Saini. Sale deed dated 12.05.2010, in favour of said Vishal Saini was produced as proof of his ownership. An amount of approximately Rs.68 lacs was sanctioned in favour of the petitioner and his wife, but the same was paid to the vendor, namely, Vishal Saini. Although, all formalities were completed at the time of sanctioning of loan, subsequently, the documents were re-examined and it was found that the sale deed in favour of vendor, namely, Vishal Saini was forged. The actual owner was his wife-Jyoti Saini. It was also found that the sale deed executed in favour of the petitioner and his wife was also a fictious document and there is no record of its registration. The petitioner, his wife and Vishal Saini have thus, defrauded the bank.

Learned counsel for the petitioner submits that sale deed dated 12.05.2010, was forged by Vishal Saini. Thereafter, the bank carried out due diligence and sanctioned the loan. However, no sale deed was executed in favour of the petitioner and his wife. Money has been received by Vishal Saini. Thus, the petitioner is himself an aggrieved person. Further, the case is triable by a Magistrate and the petitioner has been in custody since 14.05.2018. Charges have been framed, but examination of prosecution witnesses has not commenced as yet. Co-accused-Vishal Saini has still not been arrested and thus, the trial is not likely to be concluded at an early date. The petitioner may therefore, be granted regular bail.

The prayer is opposed by learned State counsel. He submits that the sale deed dated 16.02.2016 contains the signature of the petitioner. The money has been divided between Vishal Saini and the petitioner. The trial is in progress as three prosecution witnesses have already been examined out of twenty four prosecution witnesses. The next date of hearing before the trial Court is 17.10.2018.

Learned counsel for the complainant-Bank has drawn my attention to Para-7 of the reply filed on behalf of the Bank, wherein it is stated that although, the loan amount was transferred in favour of Vishal Saini, a part of the said amount has been received by the petitioner also. Sale deed was, in fact, executed in favour of the petitioner and his wife and the original thereof has been deposited with the bank before the disbursement of the loan. Therefore, it is apparent that the petitioner and his wife were also part of the conspiracy hatched by Vishal Saini.

From the submissions made by learned counsel for the parties, certain undisputed facts which emerge are that:

i) the petitioner and his wife made an application to the complainant-Bank for disbursement of loan;

ii) For obtaining this loan, original sale deed dated 12.05.2010 in favour of the Vishal Saini was produced before the bank;

iii) The loan was sanctioned after following the proper procedure; and

iv) sale deed dated 16.02.2016, has been executed in favour of the petitioner and his wife and the original thereof is with the bank.

In the backdrop of the aforementioned facts, the argument of learned counsel for the petitioner that no sale deed was executed in his favour and that he continued to pay instalments despite possession of the property not having been delivered to him, does not inspire confidence. Had this been the case, he would not have kept quiet and would have definitely approached the bank or the police authorities. It is, thus, apparent that the petitioner and his wife were also part of the conspiracy. This case involves mis-appropriation of a sum of almost Rs.68 lacs of public money and I do not deem it appropriate to grant any relief to such offenders.

The petition is therefore, dismissed. It is, however, made clear that nothing stated hereinabove shall be taken as an expression of opinion on the merits of the case.

(SUDHIR MITTAL)
JUDGE

10.10.2018
Ramandeep Singh

Whether speaking / reasoned Yes / No

Whether Reportable Yes/ No