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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.219

CRM-M-45366 of 2018
DECIDED ON: *October 30, 2018*

KAUSHIK CHATTERJEE

..PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. R.S. Cheema, Senior Advocate with
Mr. Arshdeep Singh Cheema and
Mr. Rajnish Gaur, Advocate,
for the petitioner.

Mr. Satish Saini, AAG, Haryana.

Mr. D.S. Patwalia, Senior Advocate with
Mr. Gaurav Rana, Advocate,
for the complainant.

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SUDHIR MITTAL, J. (ORAL)

The petitioner seeks regular bail in case FIR No.0452, dated 14.09.2018, registered under Sections 406, 408, 420, 120-B & 34 IPC, at Police Station Civil Lines, District Gurugram.

The complainant is M/s Capri Global Capital Limited in which, the petitioner was employed as Group Chief Risk Officer and Executive Director. The allegation against him is that in his capacity as Group Chief Risk Officer and Executive Director, he sanctioned a loan of Rs.4.30 crores in favour of M/s Zillion Infrastructure Projects Pvt. Ltd. through its

Ankur Goyal
2018.10.31 17:53
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Director Sh. Anant Saxena in violation of the company norms and rules, maliciously and in connivance with Sh. Anant Saxena as well as one Sh. Raman Puri. Allegedly, Sh. Raman Puri, was the builder, who had constructed unit No.709, 7th floor, Universal Business Park, Sector 66, Gurugram, Haryana and he was interested in selling the same. M/s Zillion Infrastructure Projects Pvt. Ltd. was interested in purchasing the said property for its general corporate business purpose and therefore, a loan was required. The loan was sanctioned by the petitioner in violation of company rules and norms and in the teeth of objections raised by the various departments whose reports are necessary before the file is put up for final sanction. Thus, in brief, the allegation is that the petitioner connived with the loanee and misused his position for sanctioning the loan.

Learned Senior counsel for the petitioner submits that the petitioner remained in service of the complainant-company for almost two years. He resigned on 26.07.2018. The resignation was accepted on 30.07.2018 and two months later, the present FIR was registered on 14.09.2018 after the petitioner had joined another company in Mumbai. In between, the loan account in dispute was declared NPA on 31.01.2018 and proceedings under The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI), were initiated. The complainant-company has taken possession of the property provided as collateral security in the said proceedings. The valuation of the collateral security as on date of disbursement of loan was Rs.5.95 crores and as on date is Rs.4.46 crores and thus, the allegations against the petitioner are misconceived. Further, the petitioner is a respected professional. Assuming that the loan was sanctioned in violation of the rules and norms,

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mala fide intentions cannot be alleged as the petitioner has sanctioned many such loans and is himself drawing a handsome salary of Rs.1.43 crores per annum. A sum of Rs.4.43 crores is not such a huge amount, for which, it can be assumed that the petitioner would have bartered his professional ethics and therefore, there was no necessity of arresting him from Mumbai and bringing him to Delhi like a small time fraudster. In any case, all the evidence in this case is documentary in nature. The police sought custody only for one day and thereafter itself recommended judicial custody which clearly shows that the prosecution does not need to collect any information from the petitioner. The petitioner has been in custody for a long enough period i.e. 42 days and there is no likelihood of him interfering in the investigation. Thus, he be released on regular bail.

Learned State counsel as well as learned Senior Counsel representing the complainant, strongly object to the prayer for grant of regular bail. It is submitted that the facts of this case speak for themselves and point towards the culpability of the petitioner. The default occurred within four months of disbursal of the loan. The loan was sanctioned for investment in real estate, whereas, this purpose is barred under the rules of the company. A loan can only be sanctioned for business purposes. No collateral security was taken before disbursal of the loan and in transactions of this nature, the first requirement is obtaining of a collateral. The property for which the loan was sought was submitted as collateral and such a procedure is unknown. The petitioner has defrauded the complainant-company of a huge amount of money and the loan was sanctioned despite objections having been raised by the concerned

Ankur Goyal
2018.10.31 17:53
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departments. Thus, it is apparent that the sanction of the loan was mala fide and accordingly, the petitioner does not deserve to be released on regular bail.

I have heard the learned Senior Counsel as well as learned State counsel at length.

The question before me only is whether in the facts and circumstances of this case, the petitioner deserves to be released on regular bail. It has been held by the Hon'ble Supreme Court times without number that at the stage of grant of bail courts should refrain from adverting to the merits of a case lest the rights of parties are prejudiced. Thus, although arguments on the merits have been raised from both sides, I refrain from commenting thereupon.

From the facts of this case, it emerges that a loan transaction has gone bad. Whether, any culpability was involved or not is a matter of trial. The petitioner is currently employed in Mumbai whereas, the investigation is being done in Gurugram and Delhi. The entire evidence is documentary in nature and is available to the Investigating Agency as there is no allegation that the petitioner has carried the hard drives of the computers of the company with him. The application seeking judicial remand of the petitioner itself shows that after one day of police custody, the police was satisfied with the interrogation of the petitioner and did not want his custody for any further reasons or purposes. Under the circumstances, keeping the petitioner behind bars would serve no useful purpose.

Ankur Goyal
2018.10.31 17:53
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Accordingly, the petition is allowed and the petitioner, is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

However, the prosecution shall be at liberty to seek cancellation of the bail granted to the petitioner, in case, it comes to its notice that the petitioner is interfering with the investigation or with the evidence either overtly or covertly.

October 30, 2018 **(SUDHIR MITTAL)**
Ankur **JUDGE**

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No