IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-9036-2018 (O&M)
Date of decision: - 28.05.2018

Surinder Pal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sanjay Kaushal, Senior Advocate
with Mr. Mandeep Kaushik, Advocate,
for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab

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Mr. Sat Paul Sharma, Advocate
for the complainant.

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<u>MAHABIR SINGH SINDHU, J. (ORAL)</u>

<u>CRM-17780-2018</u>

Learned counsel for the petitioner submits that the present application is rendered infructuous and the same be dismissed as such.

Ordered accordingly.

<u>CRM-M-9036-2018</u>

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.') for grant of anticipatory bail to the petitioner in case FIR No.63 dated 17.02.2018, under Sections 406, 420, 465, 467, 471 and 120-B IPC, registered at Police Station City Sangrur, District Sangrur.

2. It is contended on behalf of the petitioner that he is a retired Bank officer as he obtained Voluntary Retirement on 30.04.2017 and during entire career of thirty four years, his services remained unblemished. It is further contended that he has secured the Bank interest by mortgaging the collateral of the loanees and the entire record pertaining to the loan transactions is available with the Bank and investigating officer is at liberty to obtain the same. It is also argued that the petitioner is a heart patient and he has undergone surgery. It is further contended that the petitioner has no control over the said record of the Bank after his retirement and he is ready to join the investigation, thus, his custodial interrogation is not required as the entire case of the prosecution is based on the documentary evidence.

3. On the other hand, learned State counsel as well as learned counsel for the complainant-Bank have opposed the contentions of learned Senior counsel for the petitioner on the premises that he has actively connived with the loanees as well as defrauded the Bank to the tune of more than Rs. One Crore i.e. Rs.1,10,18,314.73/- (One Crore, ten lakhs, eighteen thousand, three hundred fourteen and seventy three paise). It is further submitted that after registration of the FIR, the police has also added an offence under Section 409 IPC in the present case by way of a DDR entry as the petitioner has committed criminal breach of trust, being Chief Manager of the Bank, at the relevant time and his custodial interrogation is necessary to gather the true facts.

4. Heard learned counsel for the parties and perused the paper-book.

5. The allegations as per FIR lodged by the present Chief Manager, SBI, Branch Barra Chowk, Sangrur, Punjab, are that (i) Sunil Jain; (ii) Pargat Singh; (iii) Meenakshi Jain wife of Sunil Jain; (iv) Reeta Rani wife of Pardeep Kumar; and (v) Surinder Pal Singh (petitioner), the then Chief Manager of the SBI, Barra Chowk Branch, Sangrur, committed a fraud with the Bank to the tune of Rs.1,10,18,314.73/- (One Crore, ten lakhs, eighteen thousand, three hundred fourteen and seventy three paise) between 01.04.2016 to 06.12.2017 and sanctioned two loans (Rs.23.75 lakhs each) totaling Rs.47.50 lakhs under Prime Minister Employment Guarantee Programme Scheme (for short 'PMEGP scheme') to the ineligible loanees and the modus operandi is described in the following manner: -

Pargat Singh was having an account No.65112876444 with the Branch and the same was opened through Sunil Jain in the year 2011 and credit entries were made from many internal as well as external accounts, including drafts related to third parties and funds were diverted to this account. Pargat Singh is alleged to be the employee of Anil Jain, who is real brother of Sunil Jain. As per internal investigation report of the Bank conducted for the period 01.04.2016 to 06.12.2017, an amount of Rs.1,10,18,314.73/- (One Crore, ten lakhs, eighteen thousand, three hundred fourteen and seventy three paise) was credited in the account of said Pargat Singh and credits were primarily originated by Sunil Jain and the same were fraudulently withdrawn by him (Sunil Jain) by way of cash transactions as Sunil Jain was working as a cashier in the same very Bank during this period. It is further alleged that Sunil Jain was suspended on 11.12.2017 and as per internal investigation of the Bank, he used to initiate the debits to the Bank internal accounts and credited to the account of Pargat Singh and he also used to withdraw the money in cash from the account on behalf of said Pargat Singh. It is also alleged that during internal vigilance investigation by the Bank, on many occasions Sunil Jain had transferred the money from the account of Pargat Singh to the account of his wife Meenakshi Jain, his son Goverdhan Jain, daughter Anushka Jain, his brother Anil Jain and the firm owned by Meenakshi Jain as a proprietor. It has also surfaced on many occasions that Sunil Jain has initiated NEFT and RTGS entries from the account of Pargat Singh and the same have gone into other Banks and which required detailed investigation to trace out the beneficiaries. The core banking ID of Sunil Jain is clearly visible in the Bank reports for having originated the related transactions from account of Pargat Singh.

It is further alleged that Meenakshi Jain wife of Sunil Jain was sanctioned a loan of Rs.23.75 lakhs under PMEGP scheme in the name of her firm i.e. M/s Goverdhan Wires by Surinder Pal Singh (petitioner), the then Chief Manager in January, 2017, despite the fact that she was already a proprietor of one firm, namely, Goverdhan Traders for making iron barbed wire. It is further alleged that the firm Goverdhan Traders was also sanctioned a credit limit of Rs.12 lakhs by Surinder Pal Singh. It is also alleged that in an inquiry and during the field visit by internal Vigilance Investigating Team of the Bank, the old machinery owned by Meenakshi Jain in Goverdhan Traders was shifted to the newly created firm in the name of Goverdhan Wires, owned by her at a different address and the loan was sanctioned under PMEGP scheme by Surinder Pal Singh (petitioner). Even the bills tendered to the Bank appears to be fake as it has been found that the money actually was siphoned off by Meenakshi Jain through credits to the other accounts. The loan was sanctioned to Goverdhan Wires in January, 2017 and was disbursed in the month of March, 2017 by Surinder Pal Singh (petitioner), prior to his voluntary retirement in April, 2017. It is also specifically alleged that Meenakshi Jain is not eligible for PMEGP scheme loan as she was already running a unit in the name of Goverdhan Traders in the same line of activity. It has also transpired during internal investigation report that proceeds of the term loan granted to M/s Goverdhan Wires were credited to its current account No.6528144793 and from there, drafts were made in the name of supplier, but instead of giving credit to the supplier, the drafts were credited to the same current account i.e. 6528144793 and diverted the public money by Meenakshi Jain and thus, she in collusion with Surinder Pal Singh (petitioner) has obtained a loan of Rs.23.75 lakhs, being ineligible under PMEGP scheme. There are many credit transactions raised from the account of Pargat Singh to M/s Goverdhan Traders between 01.04.2016 to 06.12.2017.

It is also alleged that Reeta Rani used to work as a peon in the same very Bank on daily wages basis for the last six-seven years and she was known to everyone and despite that a loan of Rs.23.75 lakhs was sanctioned by Surinder Pal Singh (petitioner), the then Chief Manager of the Bank under PMEGP scheme and was granted a subsidy of Rs.8.75 lakhs for setting up a unit, namely, Shri Balaji Wires and the money disbursed to the firm was siphoned off by Reeta Rani. During internal investigation, when Bank officials tried to contact said Reeta Rani on telephone, then she answered that she was doing some job in a canteen run by Army/Air Force on adhoc basis, but the loan disbursed was credited to the current account of Shri Balaji Wires and from there, the drafts of different amounts were prepared in favour of supplier and the same were ultimately credited to the account No.65112876444 of Pargat Singh and account No.65145301001 of M/s Goverdhan Traders, owned by Meenakshi Jain wife of Sunil Jain. It has also been specifically alleged that both the units i.e. Goverdhan Wires and Shri Balaji Wires are housed in the same premises for same activity, but physically indistinguishable from each other and thus, it is clearly revealed that actually the unit is one and two subsidies cases were claimed by the same unit. It has also been alleged that Surinder Pal Singh (petitioner) was working as a Chief Manager of the Branch Barra Chowk, Sangrur at that time. It has also been alleged that the petitioner sanctioned a loan of Rs.23.75 lakhs to the firm, namely, Goverdhan Wires owned by Meenakshi Jain and the same was disbursed before 31.03.2017 so that the subsidy can be claimed by the loanee. It is also alleged that he sanctioned another PMEGP scheme loan of Rs.23.75 lakhs to M/s Shri Balaji Wires, a firm owned by Reeta Rani and subsidies of both the units were claimed from the Government to the tune of Rs.8.75 lakhs each. It is also alleged that Surinder Pal Singh (petitioner) was well aware that merger of SBOP with SBI is going to take place w.e.f. 01.04.2017 and he was seeking VRS w.e.f. 30.04.2017, but despite that he proceeded in the matter. It is also alleged that Surinder Pal Singh (petitioner) also authorized charge entries which were diverted to Pargat Singh's account and in one instance he sanctioned leave encashment of a retiring employee, namely, Surinder Singh, driver, to the tune of Rs.3.99 lakhs, despite the fact that actual leave encashment was only for Rs.2.99 lakhs and Rs. One Lakh was diverted to the account of said Pargat Singh.

6. It is necessary to mention here that the PMEGP scheme was launched by the Central Government to generate employment opportunities in rural as well urban areas of the country through setting up of new self-employment ventures/projects/micro-enterprises and after recommendation of a case for the purpose of loan, the Bank will apprise the projects and take their own credit decisions on the basis of viability of each projects, both technically and economically. Therefore, the real credit making decision for sanctioning of the loan regarding a particular proposal always remains with the sanctioning authority of the Bank and that is to be examined carefully as per the scheme and Bank guidelines. In the present case, indisputedly, the petitioner was working as Chief Manager of the Branch, and thus, he was the sanctioning authority till he attained VRS on 30.04.2017. The petitioner was well aware that Ms. Reeta Rani was working as a peon in the Bank on daily wages basis for the last six-seven years and was having no experience in manufacturing of wires industry, but despite that the petitioner sanctioned and disbursed a loan of Rs.23.75 lakhs and she swindled an amount of

Rs.8.75 lakhs as subsidy amount in connivance with the petitioner. Similarly, in the second case, a credit facility of Rs.12 lakhs was granted to a firm, namely, M/s Goverdhan Traders, owned by Meenakshi Jain wife of Sunil Jain, for manufacturing of barbed wires and again a loan of Rs.23.75 lakhs was sanctioned and disbursed to the firm, namely, Goverdhan Wires owned by said Meenakshi Jain, despite the fact that there was neither any machinery; nor any unit was set up, but the old machinery of M/s Goverdhan Traders was shifted and subsidy amount of Rs.8.75 lakhs was misappropriated in connivance with the present petitioner. Thus the contention of learned Senior counsel for the petitioner that the petitioner has having 34 years of unblemished service is of no consequence and moreover the same does not give a presumption in law that he has not committed the alleged offence in the present case.

So far as the contention on behalf of the petitioner that interest of the Bank is secured on the basis of mortgage of property by both the loanees i.e. Meenakshi Jain and Reeta Rani is not acceptable for the simple reason that a total area of Goverdhan Wires owned by Meenakshi Jain is 2 kanal 2 marlas of agriculture land and there is no proof of any change of land used obtained from the competent authority for setting up of an industry and even there is no distinction on the spot between the firm owned by Meenakshi Jain and Reeta Rani and thus, the present case is a total fraud committed by the loanees by hatching conspiracy with the petitioner.

It has also come on record during the internal investigation of the Bank that on 31.03.2017, an amount of Rs.10.86 lakhs was authorized for transfer by ID of present petitioner from machinery loan No.65482247578 of Shri Balaji Wires to current account No.65282217611 of Shri Balaji Wires owned by Reeta Rani and which is contrary to the Bank guidelines as the same amounts to diversion of the public funds.

In view of the above, it is apparently clear that the petitioner has grossly misused his official powers while sanctioning the loans to totally ineligible candidates and siphoned off the funds unauthorizedly. It has also come on record after internal inquiry by the Bank that both the loan accounts of Rs.23.75 lakhs each have been classified as "fraud" and the same are categorized as non-performing assets (NPA) as per Bank record.

7. Since there are direct and serious allegations of cheating and criminal breach of trust levelled against the petitioner, therefore, prima facie, there is sufficient material to show his involvement in the commission of offences in question and the same will be unearthed after custodial interrogation as to how he managed the things. Not only that, the petitioner has taken the public money as its private property and advanced the loans in total breach of scheme to the ineligible co-accused and committed the alleged offences.

Moreover, it cannot possibly be denied that the tendency and frequency of committing fraud by the Bank officials have been tremendously increasing day by day and which is adversely affecting the economy of the country and the same needs to be curbed with heavy hands. The persons like the petitioner are treating the Banks and financial institutions as milching cow and after committing the fraud, they opt for VRS just to save their skins and thus, the argument on behalf of the petitioner that he is suffering from ailments being heart patients is liable to be rejected. It needs to be emphasised that Banks official(s)/officer(s) are the trustee of public money and they should not treat the same as their private properties. The bank money can be advanced by competent authority as loan in terms of the relevant rules, instructions and guidelines in vogue and not as a largesse at their sweet will.

8. Further more, the law is well settled that the order of pre-arrest bail cannot be allowed in a routine manner and to circumvent the normal procedure of investigation by the police. The Court has to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory powers of the police, in exercising the judicial discretion while granting the anticipatory bail in such type of fraud and breach of trust regarding public money.

9. In view of above factual position and taking into consideration the gravity of the offences and the fact that the petitioner along with other accused have hatched a criminal conspiracy and sanctioned the loans without verifying the antecedents of the loanees, he is not entitled to concession of pre-arrest bail and his custodial interrogation is necessary, in order to ascertain his role and for bringing the true facts on record. Thus, this Court does not find any merit in the present petition and the same is hereby dismissed.

The above observations may not be construed as an expression of opinion on merits of the case.

(MAHABIR SINGH SINDHU)
May 28, 2018 **JUDGE**
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Whether reportable? Yes
Whether reasoned/speaking? Yes