

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

(i) CRM No.M-12972 of 2018 (O&M)

Davinder Kumar

...Petitioner

VERSUS

State of Punjab and another

...Respondents

(ii) CRM No.M-16593 of 2018 (O&M)

Narinder Singh

...Petitioner

VERSUS

State of Punjab and another

...Respondents

Date of Decision: May 13, 2019

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Deepak Gupta, Advocate
for the petitioner (in CRM No.M-12972 of 2018).

Mr.M.L.Saggar, Senior Advocate with
Ms.Veena Garg, Advocate
for the petitioner (in CRM No.M-16593 of 2018).

Ms.Monika Jalota, DAG, Punjab
for the respondent-State.

Mr.Gurinderjit Singh, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Both the above-mentioned cases are taken up together as these

have arisen from same FIR.

Petitioners have filed these petitions under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.51 dated 02.03.2018 under Sections 406 and 420 IPC, registered at Police Station Zira, District Ferozepur.

Notice of motion was issued. Learned State counsel as well as learned counsel for the complainant appeared and contested the petitions.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

As per prosecution version, Davinder Kumar and Narinder Singh were partners in a firm, which took loan of ₹50 lakhs from the complainant-bank and property of Narinder Singh was mortgaged with the bank as security. As per learned State counsel, Narinder Singh gave Power of Attorney to one Jarnail Singh and then the immoveable property mortgaged with the bank, was sold vide sale deed to wife of Davinder Kumar and one another lady. Learned counsel for the complainant argued that now the amount of ₹1 crore is recoverable from the petitioner.

Learned counsel for petitioner Narinder Singh argued that Narinder Singh has already left the partnership and in the Power of Attorney, it has been mentioned that if the property is to be sold, then consent of the bank should be taken.

The perusal of the record shows that since registration of the FIR, not even a single penny has been deposited. The proceedings for recovery of the amount have already been initiated against the accused.

Davinder Kumar was knowing fully well regarding equitable mortgage of the property with the bank and the sale deed was got executed in favour of

wife of Davinder Kumar of that property. Similarly, Narinder Singh was knowing well that property was mortgage with the bank and huge loan has been taken, even then, he executed Power of Attorney to sell the land etc. The fact that they have not paid any amount, further shows their mensrea.

Keeping in view the facts and circumstance of the present case and in view of the serious allegations against the petitioners and their conduct in cheating the bank, no ground is made out to grant benefit of anticipatory bail to them.

Therefore, finding on merit in both the petitions, the same are dismissed.

However, nothing stated above, shall constitute my opinion on merits of the case.

May 13, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No