IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.24890 of 2019
Decided on: 30.05.2019

Suresh Kumar Gupta

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. D.V. Sharma, Sr. Advocate
with Mr. Tushar Sharma, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioner under Section 438 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.42 dated 13.05.2019, for offence punishable under Sections 409, 420 and 120-B of the Indian Penal Code, 1860 (in short 'IPC'), registered at Police Station Division No.1, Pathankot.

Learned senior counsel for the petitioner has submitted that as per the allegations in the FIR, which was registered with the allegations that in order to find out the difficulty faced by the account-holders of Hindu Co-operative Bank, Pathankot (hereinafter to be referred as ‘the Bank’) wherein a limit is fixed for withdrawal of an amount of Rs.4,000/- from their account, a five members committee was constituted by the Deputy Commissioner, Pathankot and on receiving a preliminary enquiry report, it was found that the Bank on account of being NPA by the Reserve Bank of India found that it is working like a finance company and since 2014, the Bank has only advanced loans and no action is taken for the recovery and the petitioner – Suresh Kumar Gupta has got a 15 marlas house registered in his name for not taking action against the defaulter of the Bank. This enquiry was conducted by a committee headed by the Additional District Magistrate, Pathankot, Sub-Divisional Judicial Magistrate, Pathankot, Superintendent of Police (Headquarter), Pathankot and Assistant Manager of the Bank. It was further stated in the report that the loans were advanced to the defaulters by exaggerating the value of their properties though, the limit fixed for advancement of the loan to defaulters cannot be enhanced and it was recommended that FIR should be registered.

Learned senior counsel for the petitioner has further argued that in an enquiry conducted by the Deputy Commissioner, Pathankot for the purpose of finding the reasons for the downfall of the Bank, on 13.05.2019, it was reported as under:-

> *"Apart from the above, it has come to knowledge from the enquiry of the revenue record and the officials, Smt. Manju Joshi wife of Shri Sunil Joshi has taken a loan of the amount of Rs.01 crore 50 lakhs from the Bank on 17.08.2008 in the name of M/s Maa Durga Trading, whose owner is Smt. Manju Joshi which was enhanced on 18.11.2011 to Rs.2 crore 40 lakhs whereas this company had become a defaulter of the Bank in July, 2013. For the reason that no action should be taken against this company, they connived with the M.D. of the Bank of that time and got registered a kothi of 15 Marlas situated at Ram Leela Ground, Children Park, Pathankot in the name of Shri Suresh Gupta on 19.12.2007."*

Learned senior counsel for the petitioner has also submitted that in fact this enquiry was conducted without verifying the facts as the petitioner has retired from the Bank in the year 2014 and Manju Joshi from whom the petitioner has purchased the property, was not a borrower of the Bank.

Learned senior counsel for the petitioner has relied upon 02 notices issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, against M/s. Maa Durga Trading Company, Pathankot through its proprietors Manju Joshi, Amit Mahajan and Vikram Joshi for taking appropriate action on 04.01.2014 and then, a possession notice was given on 08.05.2014 and therefore, there is no fault on the part of the petitioner. It is also submitted that the petitioner is a former employee of the Bank and is aged about 63 years and is ready to join the investigation.

After hearing learned senior counsel for the petitioner, I find no merit in the case. A perusal of the FIR, which is registered on a fact finding enquiry conducted by a committee constituting of 05 senior officicers of the District, it is apparent that M/s. Maa Durga Trading Company, Pathankot was advanced loan by the Bank in the year 2008 and thereafter, despite the fact that it was a defaulter, the Bank, wherein the petitioner was working as a Managing Director, enhanced the limit of the loan and not only the same, the petitioner got registered a 15 marlas house in his name from the defaulter Manju Joshi, proprietor of M/s. Maa Durga Trading Company, which shows that the petitioner has deliberately acted against the interest of the Bank and has acquired the aforesaid property as a gratification and therefore, considering the serious allegations against the petitioner, I find no ground to grant anticipatory bail to the petitioner.

Accordingly, this petition is dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

30.05.2019
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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No