

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

CRM-M-9023-2020
Date of decision: 02.03.2020

Pawan Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Parveen Kumar Garg, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition, filed under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioner in FIR No. 33 dated 04.04.2017, registered under Sections 420, 465, 467, 468, 471 and 120-B of the IPC at Police Station City Sunam, District Sangrur.

The first petition filed by the petitioner along with co-accused Kanta Rani, seeking concession of anticipatory bail, was dismissed on 23.04.2019 by passing the following order in CRM-M-38534-2018:

“The anticipatory bail application of the petitioners was dismissed by the Court of Sessions on 21.04.2017. Since a period of two years has lapsed, learned counsel for the petitioner(s) seeks permission to withdraw the present petition with liberty to file afresh with the same Court in view of the changed circumstances.

Dismissed as withdrawn with liberty aforesaid.”

Brief facts of the case are that the present FIR was registered at

the instance of one Bharat Bhushan against petitioner Pawan Kumar, his wife Kanta Rani, Munish Garg, Manisha Garg and Jaspal Singh with the allegations that complainant has purchased a residential house on 19.09.2016 and the possession was handed over to him, however, later on, on 20.12.2016, it was found that the State Bank of Patiala (now State Bank of India) has taken the possession of the property as a loan of Rs. 9,96,142/- was pending as limit and a house loan of Rs. 4,85,016/- was pending against the said house before the complainant purchased the same and this fact was not disclosed by the accused persons. It is further stated that another loan of Rs. 7,95,000/- was taken by Kanta Rani on the said house from ICICI Bank, Branch Sunam and the petitioner and his wife executed the sale deed by concealing these facts.

Learned counsel for the petitioner submits that new ground for filing the present petition is that some settlement has been arrived at between the petitioner and ICICI Bank and the petitioner has deposited some amount with the said bank. However, on a Court query, learned counsel could not dispute that the loan taken from State Bank of India is still outstanding towards the property, which was purchased by the complainant. Learned counsel for the petitioner further could not dispute that the house in dispute, which was sold to the complainant, was not shown in any of the documents i.e. agreement to sell or sale deed.

Learned counsel for the petitioner further argues that the said residential property was already sold by Kanta Rani, wife of the petitioner on 13.10.2016 and, therefore, the petitioner was not concerned with the said property.

It is further submitted that in view of the undertaking given by co-accused Manish Garg, the loan amount outstanding towards ICICI Bank was cleared.

After hearing learned counsel for the petitioner, I find no ground to grant concession of anticipatory bail to the petitioner.

The first bail application, filed by the petitioner, was dismissed on 21.04.2017 by the Court of Sessions and thereafter, after a delay of about two years, the petitioner filed his first bail application before this Court, which was dismissed as withdrawn on 23.04.2019 with liberty to file afresh before the Court of Sessions. The Additional Sessions Judge has dismissed the second application again noticing the fact that while executing the sale deed, the fact that the house was already pledged with the bank was concealed from the complainant and, therefore, the property was sold without clear title.

Learned counsel for the petitioner could not dispute that the loan on the property raised from State Bank of Patiala (now State Bank of India) is still outstanding and even the second bail application was dismissed by the Additional Sessions Judge on 28.05.2019 and the present petition has been filed in 2020, which demonstrates that the petitioner, instead of surrendering before the trial Court, despite the fact that FIR is dated 04.04.2017, is filing repeated bail applications before the Court of Sessions as well as before this Court.

The mere fact that some part of the amount has been deposited with one Bank is not a ground to entertain the second application for grant of anticipatory bail.

Accordingly, finding no ground to grant anticipatory bail to the petitioner, the present petition is hereby dismissed.

02.03.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No