IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 203 CRM-M-16724-2020

Date of decision : 15.07.2020

Kulwant Singh ..... Petitioner

VERSUS

State of Punjab ..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Karanjit Singh, Advocate, for the petitioner.

Mr.V.G.Jauhar, Sr. DAG, Punjab.

Mr.Ashwani Prashar, Advocate, for the complainant.

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DEEPAK SIBAL, J. (ORAL)

Case taken up through video conferencing.

Affidavits filed on behalf of the State and the complainant are ordered to be taken on record. Copies of the same have already been supplied to learned counsel for the petitioner in advance.

Through the present petition filed under Section 438 Cr.P.C. the petitioner seeks the grant of anticipatory bail in FIR No.11 dated 18.02.2020 registered under Sections 409, 420,120-B, 419, 465, 467, 468, 471, 477-A IPC, Section 13 of the Prevention of Corruption Act, 1988 and Sections 66 and 66-D of Information Technology Act, 2000 at Police Station Tarsikka, District Amritsar (Rural).

As per the affidavit filed on behalf of the State, on 18.02.2020 a complaint was submitted to the police by the Amritsar Central Cooperative Bank, Amritsar (for short-the Bank) alleging therein commission of irregularities and embezzlement. Such complaint formed the basis of registration of the aforesaid FIR.

In addition to reporting the matter to the police, on the detection of the aforesaid embezzlement, the Bank also constituted an enquiry committee headed by a Deputy General Manager of the Bank which submitted its report dated 06.07.2020 as per which the petitioner and his co-accused were found to have embezzled an amount of Rs.17,80,41,356.89/- by making false entries in "OFL Settlement Account" and "OFL Interest Settlement Account" of the Bank and in the corresponding records/accounts of the Cooperative Societies of which the petitioner and Sukhdev Singh were Secretaries. The accused persons were also found to have made reverse deposits to the tune of Rs.2,35,72,906/- resulting in net embezzlement of Rs.15,44,68,450.89/-. Such embezzlement was found to have been committed for the years 2014 to 2020.

After lodging the aforesaid FIR the State arrested Rakesh Kumar, Manager of the Tarsikka Branch of the Bank and his custodial interrogation revealed that he and co-accused Ram Kishore, Cashier of the Branch, used to make false entries in the accounts of three Cooperative Societies namely Tarsikka Multipurpose Cooperative Society, Bhattike Cooperative Society and Saidolehal Multipurpose Cooperative Society. Such false entries were made in connivance with the petitioner and co-accused Sukhbir Singh and Sukhdev Singh who were the Secretaries of the aforesaid three Cooperative Societies. Investigations further revealed that Sukhbir Singh, Sukhdev Singh and petitioner-Kulwant Singh being Secretaries of the aforesaid three Cooperative Societies were the only ones who used to liaison between the Tarsikka Branch of the Bank and the Societies and by taking undue advantage of their official position as also the innocence and ignorance of the farmers/villagers/members of the societies committed forgery and embezzlement. They were found to have used blank cheques given to them by the simple, ignorant and mostly illiterate villagers which were used by them to siphon off money from their accounts.

The modus operandi adopted by the petitioner along with his co-accused as given in the status report filed by the State is extracted below:-

> "(a) Take blank signed cheques from the farmers on the pretext of renewing their loan limits;
> (b) After securing these blank cheques, the petitioner-Secretary in connivance with the Bank officials used to manipulate banking entries so as to show that the concerned farmer/member has re-paid the earlier loan;
> (c) Thereafter, the loan limit was renewed on the basis of forged recovery of earlier loan, and fresh cash advances/loans were made to the respective accounts of the loanees from the renewed loan limits;
> (d) Then the blank cheque in possession of the secretary was misused and funds were either diverted to their personal accounts and accounts of friends or cash were withdrawn from the bank;
> (e) All the instructions for conducting every activity of recovery of loan, renewal of limit, and further cash advances were made by the petitioner Secretary without the knowledge and consent of the member/farmer;
> (f) Wherever, the farmer/member got suspicious due to discrepancy of amounts in his loan accounts, the petitioner-Secretary along in connivance with Bank Officials used to cover up in that respective account by putting fake and forged entries from the OFL Settlement Account which is an 'offline account' maintained with the bank and is subject to easy manipulation since it is not linked to the live balances and other online ledgers of the bank;
> (g) The petitioner Secretary also misused the funds to the extent that any scheme of loan waiver issued by the Government was passed on to the member/farmer only after obtaining signed blank cheques which were obliquely used for the purposes of renewing loan limits, obtaining cash advances in the name of the member/farmer and thereafter diversion of these funds;
> (h) The scam has been carried out for the last more than 6 years wherein the victims are illiterate farmers and various Cooperative Banks."

Investigations further revealed that "OFL Settlement Account" and "OFL Interest Settlement Account" are solely for the personal use of the bank. However, co-accused Rakesh Kumar and Ram Kishore, in connivance with the petitioner and other Secretaries of the aforesaid three Cooperative Societies, misused their official positions to transfer huge amounts from "OFL Settlement Account" to the accounts of the Saidolehal Multipurpose Cooperative Society, Bhattike Cooperative Society and Tarsikka Cooperative Society. Such transfers were made as disbursement of loan amounts to the members of the societies but the same were without the knowledge of and instructions from the members. Since the members were not aware of the disbursement of such amounts they were withdrawn by the petitioner and his co-accused. These withdrawals were made through dummy accounts opened and falsely verified by them. Some of the amounts were found to have been withdrawn even without any cheque or verification.

Investigations conducted so far have further revealed that the petitioner transferred huge amounts from the accounts of the bank to his and his family member's personal savings account(s).

The petitioner and his co-accused have also been found to have deposited the interest collected from the members of the Cooperative Societies and another payments of the Cooperative Societies in the ‘OFL Settlement Account” which is against the rules of the Bank. Such amounts were then found to have been withdrawn, transferred and embezzled as per the will of the petitioner and his co-accused.

All the accused, including the petitioner, in connivance with each other, have further been found to embezzle huge amounts of money from the Kissan Credit Card loan accounts. Investigation has found that the modus operandi adopted by them in this regard was that they used to obtain blank cheques from ignorant farmers by assuring them that they are withdrawing amounts on their behalf from their loan accounts. However, they used to fill up the amounts in the cheques as per their wishes and used to pay only a part of the withdrawn amount to the farmers. The balance amount was pocketed by them. Then they used to make false entries in the passbook of the ignorant farmers.

Thus, investigations conducted so far have revealed that the petitioner has indulged in forgery and fraud. He is found to have misused his official position and embezzled crores of rupees by defrauding innocent and ignorant farmers, who reposed faith in him. All this was done under the pretext of facilitating disbursement of loans to the members of the society/farmers under the different schemes floated by the Government and then embezzling a part or whole of such amounts for personal gain.

It is the admitted position that the petitioner has deposited to the bank an amount of Rs.17,52,000/-. Source of such amount needs to be verified.

The investigation is still under way and till date the same has revealed embezzlement of huge amounts by the petitioner. Such embezzlement is allegedly by defrauding and cheating innocent farmers and out of the loans to which they were entitled to under several schemes floated by the State for their benefit. It cannot be ruled out that for non-release of loan amounts to which the innocent farmers were entitled to, on being pocketed by persons like the petitioner, caused the innocent farmers untold misery and may have even led them to take the extreme fatal step. This aspect also needs to be investigated.

The seriousness of the offences alleged to have been committed by the petitioner; the extent of embezzlement by him; the petitioner's exact role vis-à-vis him and his co-accused; whether other persons are involved; recovery of the embezzled amount and incriminating documents; investigations into the findings arrived at in the Enquiry report dated 06.07.2020 by the Enquiry Committee appointed by the Bank; unearthing of shadow accounts, if any, opened and operated by the petitioner; modus operandi adopted by the petitioner and his exact role therein and the extent of properties, if any, acquired by the petitioner and his family members as also finding the source of the funds deposited in the petitioner's personal account(s) are few of the issues on which light can be thrown only through the petitioner's custodial interrogation.

In view of the above as also for the reason that the petition for anticipatory bail filed by co-accused Sukhbir Singh being CRM-M-17385-2020 "Sukhbir Singh vs State of Punjab" already stands dismissed by this Court on 10.07.2020 the present case is not considered a fit one for the grant of anticipatory bail.

Dismissed.

A copy of the order be forwarded to the Commissioner of Income Tax/ Joint Director, Income Tax (Investigation), Amritsar who may examine the matter to find out whether the petitioner has violated any provisions of the Income Tax Act, 1961 and then take action, if so required, in accordance with law. Such directions have been issued inter-alia keeping in view the allegation with regard to embezzlement of over a crore of rupees by the petitioner and deposit of Rs.17,52,000/- made on his behalf.

It is clarified that the above observations have been made only for the limited purpose of deciding the present anticipatory bail application at the time when investigation into the allegations against the petitioner is pending and thus the same would not be construed to be an expression of opinion on the merits of the case.

15.07.2020 [DEEPAK SIBAL]
shamsher JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No