

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

CRM-M-17627 of 2020

Date of Decision: 07.07.2020

Harjinder Singh

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Gursimran Singh Bawa, Advocate
for the petitioner.

Mr.Saurav Khurana, DAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.06, dated 06.01.2020, having been registered at Police Station Civil Lines, Amritsar, alleging therein the commission of offences punishable under Sections 406, 420, 467, 468, 471 and 120-B of the IPC.

Learned counsel for the petitioner submits that no criminal case is made out against the petitioner or his wife, for the reason that it was only a question of a loan taken from the State Bank of Bikaner and Jaipur for purchasing a car, with the property of the guarantor duly mortgaged with the bank as security against the loan obtained.

Notice of motion.

Mr.Saurav Khurana, DAG, Punjab, accepts notice at the asking of the Court, he already having received a copy of the petition in advance.

Learned State counsel submits that the matter is not as simple as the counsel for the petitioner is making out, because firstly, the registration certificate provided to the bank was supposed to be that of the vehicle which was to be purchased with the loan given, whereas the petitioner infact gave the registration certificate of a motorcycle (and not a car).

He further submits that the petitioner also gave a wrong address and did not gave the correct Aadhar Card number and other documents.

In rebuttal, learned counsel counsel for the petitioner submits that as a matter of fact the petitioner has given his correct address but it was the guarantor who had not given the correct address, and in fact the car that was purchased with the loan given to him, is also with the guarantor, i.e. one Davinder Singh, and as regards any documents of the petitioners' wife which are not stated to be authentic, his wife had infact never signed those documents.

He further submits that the property of the guarantor as was mortgaged with the bank, can always be used to settled the account.

Having considered the matter, I do not agree with learned counsel for the petitioner because if indeed it was only a question of recovery of a loan granted to the petitioner, possibly a criminal case may not have been made out; however, with even with the loan admittedly being in favour of the petitioner, and he even having supplied a wrong registration certificate to the bank, and with him now taking a plea that the property of the mortgagor should be used to discharge the loan, obviously he is trying to get wriggle out of his own wrongdoings.

It is to be noticed that learned State counsel on query, has submitted that the guarantor, Davinder Singh, is also an accused in the case.

Consequently, this petition is dismissed. However, nothing stated hereinabove shall be taken to be an observation of this Court on the actual merits of the case for or against the petitioner, but only in the context of a petition filed under the provisions of Section 438 Cr.P.C. which would naturally be subject matter of investigation as per evidence gathered and if eventually a *challan* is submitted to court, the trial court would also thereafter proceed wholly on the basis of the evidence led before it.

July 07, 2020

dharamvir

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES
Whether Reportable : NO