

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

201

CRM-M-17705-2020

Date of decision: 17.11.2020

Telu Ram

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sandeep Singh Ghangas, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Haryana
for respondent No.1-State.

Mr. Sanchit Punia, Advocate
for respondent No.2-complainant.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.0242 dated 12.05.2020 registered under Section 420 of the Indian Penal Code, 1860 (for short, "IPC") at Police Station Barwala, District Hisar.

The above said FIR was registered on complaint made by respondent No.2-complainant Vijender to the Chief Minister, Haryana. In the complaint complainant Vijender alleged that Telu Ram (the petitioner) fraudulently availed a loan of Rs.2,50,000/- from the Hisar Central Co-operative Bank Limited Branch Kharak Punia, District Hisar against land owned by his uncle Chattar Singh who was issue-less

widower by furnishing a false affidavit by showing himself to be son of Chattar Singh. Chattar Singh died on 07.04.2011 and land of his share fell to his four brothers as per his Will but the same could not be mutated due to non-payment of the loan by Telu Ram.

While issuing notice of motion on 17.07.2020, this Court had granted interim anticipatory bail to the petitioner with direction to join the investigation.

The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Rohtash Singh, HPS, Deputy Superintendent of Police, Barwala and also by the complainant, who was impleaded as respondent No.2. However, no reply has been filed by respondent No.2-complainant.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent No.2-complainant and have gone through the record.

Learned Counsel for the petitioner has submitted that loan was taken by Chattar Singh, uncle of the petitioner from Hisar Central Co-operative Bank against mortgage of his land. The petitioner stood guarantor for him. The petitioner has been falsely implicated in the case on the basis of inadvertent mention of wrong parentage of the petitioner in the affidavit filed by him by mentioning that he was son of said Chattar Singh. The petitioner is ready to discharge his liability under the loan transaction in accordance with his share. In compliance with order dated 17.07.2020, the petitioner has joined the investigation.

Learned State Counsel has vehemently opposed the petition and submitted that the petitioner fraudulently availed the loan

against the land of his uncle Chattar Singh by deliberately submitting false affidavit showing himself to be son of Chattar Singh. The petitioner is liable to pay the entire loan amount. The petitioner has joined the investigation but he did not cooperate with the investigating officer and did not repay the loan amount which he had taken fraudulently by filing a false affidavit. His custodial interrogation is required for recovery of the amount. In view of gravity of accusation and default in payment, the petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

Learned Counsel for respondent No.2-complainant has also submitted that the petitioner falsely impersonated as son of Chattar Singh, submitted false affidavit and fraudulently took the loan of Rs.2,50,000/- from the bank. The petitioner merely paid amount of Rs.1,00,000/- and did not pay the balance amount. The petitioner does not deserve grant of anticipatory bail and the petition may be dismissed.

In the present case it is not disputed that loan was given by the Hisar Central Co-operative Bank Limited Branch Kharak Punia, District Hisar in the name of Chattar Singh against his land. The petitioner stood guarantor for him. No FIR was lodged by the above said Bank regarding fraudulently taking of loan by the petitioner by false personation. The case involves debatable question as to whether wrong parentage of the petitioner was given in the affidavit deliberately or due to mistake. The above said Bank has judicial remedies for recovery of the amount and custodial interrogation of the petitioner cannot be said to be essential for recovery of the same.

Keeping in view the facts and circumstances of the case,

nature of accusation against the petitioner, the fact that custodial interrogation of the petitioner is not necessary in the case and there is no material to justify the apprehension of the petitioner fleeing from justice or tempering with evidence or criminally intimidating the prosecution witnesses but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves the grant of anticipatory bail.

In view of the above discussion, the petition is allowed and order dated 17.07.2020 granting interim anticipatory bail to the petitioner is made absolute. However, the petitioner shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to him.

17.11.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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