

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

(1) **CRM-M-46577-2019(O&M)**

Shankar Parwani

...Petitioner

Versus

State of Haryana

...Respondent

(2) **CRM-M-43373-2019(O&M)**

Kaushik Chatterjee

...Petitioner

Versus

State of Haryana

...Respondent

**Date of decision:-22.1.2020**

**CORAM: HON'BLE MR.JUSTICE H.S. MADAAN**

Present: Mr.Suvir Sidhu, Advocate  
for the petitioner in **CRM-M-46577-2019.**

Dr.Anmol Rattan Sidhu, Sr. Advocate with  
Mr.Vikas Sharma, Advocate,  
Mr.Ranvijay Singh, Advocate and  
Mr.Pratham Sethi, Advocate  
for the petitioner in **CRM-M-43373-2019.**

Mr.Kuldeep Sharma, AAG, Haryana.

Mr.Gaurav Rana, Advocate  
for the complainant.

\*\*\*\*

**H.S. MADAAN, J.**

By this order, I intend to dispose of two petitions i.e.

**CRM-M-46577-2019** filed by petitioner Shankar Parwani and **CRM-M-43373-2019** filed by petitioner Kaushik Chatterjee, who are accused in FIR No. 356 dated 20.8.2019, under Sections 406, 408, 420 IPC(offence under Section 387 IPC added later on), registered at Police Station Civil Lines, Gurugram for grant of regular bail.

Briefly stated, facts of the case as per prosecution story are that complainant Capri Global Capital Limited having its office at Gurugram, a Non-banking Financial Company engaged in business of providing financial services had submitted a written complaint to Commissioner of Police, Gurugram against Kaushik Chatterjee, M/s M.S. Hotel through its Proprietor Shankar Parwani, Varsha Parwani, Dipesh Parwani, Vrishab Parwani and Riddhi Siddhi Mobile. *Inter alia*, in the complaint the complainant contended that Kaushik Chatterjee had joined that company on 4.7.2016 as Group CRO- Executive Director; the company reposed huge trust in him and he in turn had undertaken to work as per the terms and conditions agreed upon between the parties; accused Kaushik Chatterjee was duty bound to carry out the responsibilities and duties assigned to him from time to time and to act in the best interest of the company in its fiduciary capacity; accused Kaushik Chatterjee being a senior management personnel in the company was vested with such powers to use his discretion in critical and decision making matters, therefore any proposal for sanctioning the loan, which involved critical issue

requiring deviations were to be decided by Kaushik Chatterjee himself. However, two back to back loans were sanctioned, granted and allowed to be disbursed by Kaushik Chatterjee from the complainant company to one M/s M.S Hotel through its proprietor Shankar Parwani along with his wife Varsha Parwani and sons Dipesh Parwani, Vrishab Parwani and Riddhi Siddhi Mobiles as co-borrowers; the first loan is of Rs.46 lakhs and the second loan is of Rs.5,13,594/- within a period of less than 12 months by violating company lending policy without recording the approval, allowing such critical deviations by arbitrarily misusing his authority over various functions; he had accepted a building as collateral security, which had collapsed just within three months from the disbursement of the second loan to the borrower killing 10 innocent persons; the said collateral security provided by way of mortgage was actually a residential property, however, in violation of plans and layout sanctioned by the Municipal Office at Indore, the same was used for commercial purpose i.e. running a lodge; by his such acts Kaushik Chatterjee got wrongful gain, but caused wrongful loss to the complainant company. Later on it transpired that the purpose of raising loan by the borrower was not for working capital requirement but for his son's marriage. The technical valuation reports from two different valuers were obtained. A title report from an Advocate was also obtained; that Kaushik Chatterjee is a habitual offender and he

has committed criminal breach of trust of his earlier employers also. Formal FIR No.452 dated 14.9.2018 for the offences under Sections 406, 408, 420, 120-B and 34 IPC had been registered against him at Police Station Civil Lines, District Gurugram. He was arrested in that case and released on bail.

On the basis of such complaint submitted, formal FIR was recorded.

Accused Kaushik Chatterjee was arrested in this case on 26.8.2019, whereas accused Shankar Parwani was arrested on 16.9.2019 and presently they are in judicial custody. However, on completion of investigation, challan has been filed in the Court. The petitioners had moved applications for regular bail in the Court of Sessions but were unsuccessful there, as such they have approached this Court by way of filing these petitions asking for the similar relief, notice of which has been issued to the respondent – State, which put in appearance through counsel. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner Kaushik Chatterjee has argued that the petitioner had performed his duties diligently to the best of his ability and had not committed any wrong and he is unnecessarily being accused of having committed criminal offences

by his employer – the complainant. There is nothing on record to show that there was *mala fide* intention of such petitioner in sanctioning of the loan or that he had obtained any unlawful gain from the transaction. As regards the other case registered against him, he is on bail. In the present case the challan has been filed. However, the Apex Court has stayed the proceedings before the trial Court. He further contends that further detention of petitioner shall not serve any purpose, as such he be granted concession of bail.

Whereas learned counsel for the petitioner Shankar Parwani has also prayed for grant of bail stating that such petitioner is in custody since 16.9.2019. He is no more required by the police for further investigation since challan has been filed. He has not committed any offence by raising loan from the complainant – company. The security furnished by him was not a residential property as alleged but to be used for dual purposes i.e. residential as well as commercial. The title was got verified from an Advocate and all the necessary formalities were completed before grant of loan. The petitioner has not misused any part of loan and merely because of an unfortunate incident of collapse of the building, he cannot be blamed and the concession of bail should not be denied to him.

Learned State counsel assisted by learned counsel for the complainant opposed the petitions.

It was contended that accused Kaushik Chatterjee

deviated from the rules and regulations and settled procedure for grant of loan and accepted the security of a property, which was not up to the mark and which could not be accepted as per rules and norms. He had ignored various violations of rules and non-compliance of norms while granting loan to the borrower. He is involved in other criminal cases also. He had caused huge financial loss to the complainant company, therefore, he should not be granted bail more particularly when some co-accused are yet to be arrested.

With regard to accused Shankar Parwani, they contended that he in league with Kaushik Chatterjee had manipulated the things to procure loans, which could not be sanctioned to him as per rules. He misused the said amount and the security of property offered was not sound and he intentionally offered the said property as security. Therefore, he also does not deserve concession of bail.

After hearing learned counsel for the parties, I find that the guilt of the accused can only be determined during the trial. Though the challan has been filed but the conclusion of trial is likely to take some time. The accused Kaushik Chatterjee is behind bars for almost five months and accused Shankar Parwani is behind bars for more than four months. Their further detention shall certainly not serve any useful purpose. Simply because of the fact that some of the co-accused of the present petitioners are required to be arrested is no ground to deny the concession of bail to the present petitioners.

Petitioner Shankar Parwani is stated to be aged about 62 years, whereas petitioner Kaushik Chatterjee is aged about 47 years. To address the concern of the State counsel that the petitioners may not abscond and try to influence the prosecution witnesses, necessary terms and conditions in that regard can be imposed.

Accordingly, the petitions are allowed. The petitioners namely Kaushik Chatterjee and Shankar Parwani are ordered to be released on bail in this case during the pendency of the trial, subject to their furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Gurugram, on following conditions:

- (i) they shall appear in the Court on each and every date of hearing;
- (ii) they shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) they shall not leave India without prior permission of the Court.

The petitioners-accused are also directed to surrender their passports if they have got ones otherwise to furnish affidavits in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioners do not abscond and interfere in the trial.

In case the petitioners violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

The petitions stand allowed accordingly.

22.1.2020  
Brij

**(H.S. MADAAN)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No