

CRM-M No.5789 of 2021

Date of Decision : 27.04.2021

Vishal Kapoor

...Petitioner

Versus

State of Punjab

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Puneet K. Bansal, Advocate for the petitioner.
Mr. Hittan Nehra, Addl. AG, Punjab.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

2. Learned counsel for the petitioner contends that the petitioner, has been implicated in a false case on the allegations that one Mohinder Singh, proprietor of the vehicle agency and the petitioner were hand in glove with each other in getting vehicles financed from the complainant-company on fictitious bills and on enquiry it was found that two-wheelers which had been financed were only on paper and there was no actual person in whose name the vehicle had been sold.

3. Learned counsel contends that the dismissal of the petition of the petitioner for pre-arrest bail by the learned Judge, Special Court, Pathankot vide order (Annexure P-5) dated 15.01.2021, is legally unsustainable, as it is based on the reasoning that the petitioner fraudently

loan is that a proposal is mooted by the owner of the vehicle agency on behalf of the intended purchaser to the complainant Company whereupon the complainant-Company refers the proposal for investigation to a Field Investigator and on the basis of report of the Field Investigator, the matter is put up before the petitioner i.e. the Branch Manager who on perusal of the investigation report of the Field Investigator takes a decision as to whether the applicant fulfills the parameters stipulated in the loan application and thereafter sanctions the same and at no point of time, the petitioner i.e. the Branch Manager interacts with the loan applicant which is done exclusively by the Field Investigator i.e. employee of the complainant company other than the petitioner.

4. Mr. Hittan Nehra, learned Addl. AG, Punjab, on instructions from ASI Sanjivan Kumar confirms the factual position as noted above to be correct.

5. Learned counsel for the petitioner contends that in the circumstances, it is apparent that the petitioner has been implicated in a false case and has no role whatsoever in the alleged fraud committed by the owner of the vehicle agency and the Field Investigator of the complainant company.

6. I have considered the submissions of learned counsel.

7. Admittedly, the proposal for sanction of loan is mooted by the owner of the vehicle agency, where the intending purchaser goes and who forwards the loan papers to the complainant-company which in turn marks the same to its Field Investigators for ascertaining as to whether the applicant fulfills the parameters stipulated for sanctioning of loans. It

is also not disputed that interaction with the loan applicant is only between the owner of the vehicle company and the Field Investigator and it is only after the Field Investigator has verified the factual position that his report is put up before the Branch Manager, of the complainant company i.e. petitioner herein, who makes an assessment as to whether loan is to be sanctioned on the basis of the report submitted by the Field Investigator.

8. Accordingly, in view of the position noted above and without commenting upon the merits of the case, the petition for pre-arrest bail is allowed. The petitioner is directed to join investigation. However, in the eventuality of the petitioner being arrested, he is directed to be released on pre-arrest bail, subject to his furnishing bail bonds / surety to the satisfaction of the Arresting/Investigating Officer. The petitioner shall also comply with the conditions contained under Section 438(2) Cr.P.C.

9. Petition disposed of with the aforementioned directions.

(B.S. Walia)
Judge

27.04.2021
'Rajneesh/Amit'

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