

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

**CRM-M-12737-2021
Date of decision: 26.03.2021**

Surjeet Kaur and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. A. S. Manaise, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed for grant of anticipatory bail to the petitioners in FIR No. 34 dated 23.05.2018, registered under Sections 420, 406, 120-B of the IPC at Police Station Dorangla, District Gurdaspur.

The first petition, filed by the petitioners, bearing **CRM-M-4043-2019**, was dismissed on merits by this Court by passing the following order on 02.05.2019:

“...Counsel for the petitioners has submitted that as per the allegations in the FIR, which was got registered by the Punjab and Sind Bank, the petitioners are running the business of rice sheller and has taken a loan of Rs.94,50,000/- as term loan and Rs.55,00,000/- as CC Hypothecation. The petitioners also mortgaged some land, however later on, all the accused persons became defaulters and the account was declared as NPA. The accused gave certain amounts to the bank by way of 02 cheques, which was also dishonoured. Later on, on

19.12.2017, when the official of the bank had gone to take the physical possession of the property, which was mortgaged/hypothecated with the bank, it was found that the machinery of the rice sheller is not there and the accused persons have illegally sold the rice sheller without the consent of the bank and has, thus, committed the offence.

Vide order dated 08.03.2019, the petitioners made a submission that the machinery referred in the FIR is lying in the agency for the purpose of repairing and the petitioners will restore it back and it was directed that the bank official on identification of the petitioners may depute any authorized person to inspect and prepare the inventory of the machinery, however, the said representation was found to be fake as no such place was identified by the petitioners and apparently, the allegation of the bank in the FIR that the petitioners have sold the machinery could not be disputed by counsel for the petitioners.

Counsel for the State, on instructions from ASI Bhupinder Singh, assisted by counsel for the complainant – Bank has opposed the prayer for bail.

Despite availing 02 subsequent last opportunities, nothing has been pointed out by the petitioners about their intention to restore the machinery.

In view of the serious allegations leveled in the FIR, which prima facie make out an offence punishable under Sections 406, 420 and 120-B IPC, I find no ground to grant anticipatory bail to the petitioners as the custodial interrogation of the petitioners is required for recovery of machinery.

Dismissed.”

Learned counsel for the petitioners submits that after dismissal of the aforesaid bail application of the petitioner, an inquiry was conducted

by the Superintendent of Police (Investigation), Pathankot, in which the petitioners were found innocent, vide inquiry report dated 20.11.2020 (Annexure P-5).

On the face of it, it appears that the petitioners have manipulated the aforesaid inquiry as the FIR pertains to the year 2018 and they are evading their arrest. Even as per order dated 22.05.2020 passed by the JMIC, Gurdaspur, the petitioners have already been declared proclaimed offenders and they are not only evading their arrest but also delaying the completion of investigation.

Learned State counsel, on instructions from the Investigating Officer, submits that co-accused Pritam Singh has already been arrested and challan qua him has been presented. It is further submitted that out of total 12 prosecution witnesses, 04 witnesses have already been examined.

Even a perusal of the record shows that allegations against the petitioners are that despite taking a huge loan of about Rs. 2 Crore, the machinery of rice sheller was sold by the petitioners without seeking permission of the bank with which, the property was mortgaged and the machinery was hypothecated.

In view of the above, finding no ground to grant concession of anticipatory bail to the petitioners, the present petition is dismissed.

26.03.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No