

CRM-M-31316-2020 (O&M)

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

**CRM-M-31316-2020 (O&M).
Decided on: January 21, 2021.**

Ramphal

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Sunil Saharan, Advocate,
for the petitioner.**

Mr.Naveen Sheoran, DAG, Haryana.

**Mr.Kuldeep Sheoran, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

Through Video Conference

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.557 dated 20.09.2018, under Sections 120-B, 420, 467, 468 and 471 IPC, registered at Police Station Barwala, District Hisar, Haryana.

As per the allegations in the FIR, the petitioner had

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obtained a cash credit limit of Rs.2 lacs from the Hisar Cooperative Bank, Barwala Branch in the year 2001 and had mortgaged his share in the land and thereafter, the petitioner did not pay the amount but had sold the property in the year 2004.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case because he had repaid the amount but the bank raised some dispute with regard to the interest amount and therefore, the bank did not take any action against the petitioner for 16 years and now after a lapse of 16 years, the present FIR has been lodged for a cause of action which had accrued to the complainant bank in the year 2001 and 2004. He submitted that even as per para 3 of the reply on merits which has been filed by the State, the State has admitted that loan of Rs.2 lacs was taken from the bank in the year 2001 which was paid by the petitioner with interest of Rs.2,38,070/- on 22.5.2004. However, it is stated in the reply that another loan was also obtained by the petitioner thereafter which has not been paid and at the most, it was a financial dispute between the petitioner and the bank and that is why no action was taken for 16 long years and the present FIR was only a concocted story. He further submitted that investigation of the present case is already complete and the challan has also been presented on 21.9.2020, before the learned Illaqua Magistrate. He submitted that the petitioner is in custody since 18.8.2020 and at the most, the matter may be termed as a civil dispute and therefore, long incarceration of the petitioner amounts to deprivation of his life and liberty.

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On the other hand, learned State counsel has submitted that it is correct that the petitioner is in custody from 18.8.2020 but since he had not paid the entire amount to the bank, therefore, the grant of regular bail to the petitioner has been opposed.

Learned State counsel has also not disputed that investigation of the present case is already complete and the challan has also been presented on 21.9.2020 and that the entire record is with the police.

Mr.Kuldeep Sheoran, Advocate, has caused appearance on behalf of the complainant. He has opposed the grant of regular bail to the petitioner on the ground that the amount due from the petitioner is outstanding. He has submitted that fake NOC was submitted by the petitioner which constitutes an offence and therefore, he may not be granted bail.

I have heard the learned counsel for the parties.

So far as the custody of the petitioner is concerned, the same is not disputed by the learned State counsel. So far as completion of investigation is concerned, the same has also not been disputed by the learned counsel for the parties. In para 3 of the reply on merits filed by the State, it has been stated that the amount of Rs.2 lacs which the petitioner obtained in the year 2001 was returned with interest and thereafter, some more amount was taken by the petitioner which has not been paid with interest. No justification has come forth as to why the FIR was lodged after a period of 16 years. Furthermore, so far as contention raised by the learned counsel for the complainant that the petitioner had sold the property on the

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basis of fake NOC, is concerned, the same would be subject matter of the trial and may be proved at the time of evidence. However, at the time of consideration of the bail application it is to be seen that in case the petitioner is released on bail, then whether he may influence the witness or tamper with any evidence. It is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence particularly in view of the fact that entire record is with the police.

Therefore, considering the totality of the circumstances of the present case, I deem it fit and proper to allow the present petition. It is ordered that the petitioner shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the concerned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

January 21, 2021.
raj arora

JASGURPREET SINGH PURI)
JUDGE

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