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

CRM-M-2632-2022

Date of decision : 21.01.2022

Biru Mal and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ishan Gupta, Advocate for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Aman Dhir, Advocate for the complainant.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioners in FIR No.97 dated 10.05.2021 registered under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860 at Police Station Dirba, District Sangrur.

Learned counsel for the petitioners has submitted that in the present case, the petitioners have not been named in the FIR and are not even the beneficiaries of the loan which has been taken, wherein, the complainant is stated to be a guarantor and his signatures are stated to be allegedly forged. It is further argued that there are as many as five

beneficiaries of the loan and four out of the said five beneficiaries, have been granted the concession of anticipatory bail by the Coordinate Bench of this Court and the main accused i.e., Mithu Ram has been granted the concession of regular bail. While granting anticipatory bail/regular bail to the said beneficiaries, it had been observed that the loan had been taken by the said persons in their own names by mortgaging their own properties and the complainant, who was stated to be a guarantor for the loan, at the first instance, had thereafter withdrawn his guarantee in the year 2018 and thus, the loan amount was the sole liability of the beneficiaries herein and that the complainant, after the year 2018, had no concern with the said loan. It was also noticed that after the year 2018, fresh guarantee was given by one Harneet Singh. It is argued that the petitioners have been implicated in the present case after a period of more than seven months.

Notice of motion.

On advance notice, Mr. Sukhbeer Singh, AAG, Punjab, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court and Mr. Aman Dhir, Advocate has appeared on behalf of the complainant. They have opposed the present petition for grant of anticipatory bail to the petitioners and have submitted that as per the SIT report dated 29.12.2021, it has been found during enquiry that the petitioners were also involved in forging the signatures of the complainant so as to make the complainant a guarantor with respect to the loan taken.

Learned counsel for the petitioners, in rebuttal, has submitted that petitioner No.1 has been implicated in the case only on account of

being brother of Mithu Ram and has been living separately from him for the last 35 years and is practicing as an Advocate and there is no material to show that petitioner No.1 had done any act which would show that he had forged the signatures of the complainant.

This Court has heard the learned counsel for the parties and has perused the paper book.

A perusal of the FIR would show that the same has been registered on the basis of complaint of Megh Raj Garg, who has made the allegations against Mithu Ram, Nishant Garg, Prince Garg, Shakuntla Devi and Veena Rani (non-petitioner) to the effect that they had taken loan by mortgaging the common land of Village Rogla and Ghodenab from HDFC Bank in connivance with the bankers and in the said loan documents, the signatures of the complainant were forged and he was shown as a guarantor. It is not in dispute that the present petitioners were not named in the FIR and there are no allegations levelled against them as per the FIR. It is also not in dispute that the petitioners are not the beneficiaries of the said loan. The alleged beneficiaries were granted anticipatory bail by Coordinate Benches of this Court vide order dated 28.05.2021 passed in CRM-M-21333-2021 and CRM-M-21377-2021 and in the said order, it was observed that the loan amount had been obtained by the said persons in their own names by mortgaging their own properties and the complainant had withdrawn his guarantee in the year 2018 and thereafter, had no concern with the said loan and has suffered no loss and in the year 2018, fresh guarantee was given by Harneet Singh. It was further observed that repayment of the loan amount was the sole responsibility of the beneficiary

against the share of the property, which they own and which they had mortgaged. Even the main accused Mithu Ram has been granted regular bail by the Coordinate Bench of this Court vide order dated 03.06.2021 passed in CRM-M-21714-2021. The entire dispute is based on documentary evidence and the case of the present petitioners is on a higher footing than the case of the beneficiaries.

In view of what has been observed hereinabove, the present petition is allowed and in the event of arrest, the petitioners are granted the concession of anticipatory bail subject to their furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer and the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioners shall join the investigation as and when called upon to do so.

It is made clear, in case, the petitioners fail to join the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioners.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

21.01.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**