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

CRM-M-3603-2022 (O&M)
Date of Decision:- 25.7.2022

Satwinder Singh … Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. G.S. Sandhu, Advocate for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab.

Mr. R.S. Chugh, Advocate for the complainant.

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GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered against him vide FIR No. 248 dated 1.12.2021 under Sections 408, 420, 120-B IPC at Police Station Sahnewal, District Ludhiana.

2. The FIR was lodged at the instance of Ravinder Gupta, General Manager, M/s Grover Automobiles Private Limited, Ludhiana. The complainant alleged that M/s Grover Automobiles Private Limited deals in sale of cars manufactured by Hyundai. Accused Satwinder Singh Mander was an employee, who used to deal with customers and used to prepare their files and look after documentation. About 10 days back, it was brought to the notice of the complainant that although a car had been sold by way of financing but the factum of hypothecation was not mentioned in the Registration Certificate. Upon being confronted, said Satwinder Singh

Mander stated that it was on account of inadvertence. Upon the complainant made further inquiries, it was revealed that even on earlier occasions there had been omission to mention the factum of hypothecation in the Registration Certificates. The complainant alleged that Satwinder Singh Mander intentionally did not get the said factum of hypothecation recorded in the Registration Certificates of vehicles with *mala fide* intentions.

3. The learned counsel for the petitioner has submitted that the job of the petitioner was merely to attend the customers who used to visit the showroom to make some inquiries or to buy vehicle and that he was not at all associated with the documentation pertaining to sale of vehicles and that it is the Accounts Department which was taking care of the documentation i.e. preparation of sales certificates etc. It has, thus, been submitted that the petitioner is unnecessarily being involved in the present case and that there is no evidence to establish the allegations against him.

4. Opposing the petition, the learned State counsel assisted by counsel for the complainant has submitted that the petitioner, apart from looking after the customers who used to visit the car agency to make queries or to purchase car, also used to assist in the matter of documentation for the purpose of sending documents to the office of the Registering Authority and that in the present case, the *modus operandi* was to get the vehicle financed and not to mention the factum of hypothecation on the Registration Certificates and thereafter to sell the vehicle in connivance with the purchasers and to pocket the sale proceeds, though the purchasers would have barely paid one or two instalments. The learned State counsel has submitted that during the course of investigation, particulars of various cars which had been sold in dubious

manner had been collected, which clearly establishes the complicity of the petitioner.

5. I have considered rival submissions addressed before this Court.

6. There are specific allegations levelled in the FIR against the petitioner to the effect that he while processing the document pertaining to sale of car intentionally did not mention the factum of hypothecation while getting Registration Certificates issued in respect of the cars and which was subsequently sold off on the basis of such Registration Certificates wherein hypothecation was not mentioned. The relevant extract from the reply filed by the State is reproduced hereinunder :-

> "…………It was further revealed that in the month of May, 2017, the present petitioner had sold Car No. PB-10GG-6431 make Creta to one Parshotam Kumar Kalsi on which 1oan of Rs.13.00 Lacs was got sanctioned from HDFC Bank but the petitioner, Raj Kumar and purchaser Parshotam Kumar Kalsi in connivance with each other did not mention the said loan on the Forms which were prepared by the petitioner and Raj Kumar for getting issued Registration Certificate as a result of which the said loan/ hypothecation was not entered on the Registration Certificate of the said car and the purchaser did not pay the instalments to the bank. Thereafter the said purchaser Parshotam Kumar Kalsi sold the said car someone else.
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> Similarly the petitioner also Sold on loan Car No. PB-10FZ-3599 to Gulshan Arora, Car No. PB-10GR-6071 to Nirmal Singh, Car No. PB-10FZ-5448 to Kumar Raghav Chaudhary, No.PB-10GF-2596 to Uttam Singh, Car No. PB-10GG- 9121 to Balbir Singh and Car No. PB-10GJ-4952 to Sanjeev Kumar. The documents of these cars were prepared and sent by the petitioner and Raj Kumar to the office of the DTO without mentioning the loan/hypothecation on the documents as a result of which Registration Certificates were issued without entering the loans/hypothecation and the Registration Certificates

were prepared as if the purchasers have purchased the cars in cash. It was further revealed that thereafter the owners of the said cars further sold the cars or again obtained loan on the Registration Certificates of their cars.

On the above noted enquiry report of the ADCP-2, the Commissioner of Police, Ludhiana obtained opinion from D.A.(Legal), Ludhiana who opined that Commission of offences u/s 408, 420, 120-B IPC is made out. Accordingly, FIR No.248 dated 01.12.2021, u/s 408, 420, 120-B IPC, P.S. Sahnewal, Ludhiana has been registered against the petitioner and his co-accused Raj Kumar and Parshotam Kumar Kalsi.

3. That the SHO has further reported to the answering deponent that during the investigation, it has been revealed that the following loans on the cars were obtained by the purchasers which the petitioner and his co-accused dishonestly/fraudulently did not filled in the documents prepared on behalf of the complainant's company as a result of which Registration Certificates were issued by the Authorities without mentioning any loan/hypothecation on the said cars.

Sr.No.	Car Number	Amount of Loan
1	PB-10GG-6431	Rs.13.00 Lacs
2	PB-10FZ-3599	Rs.9.25 Lacs
3	PB-10GR-6071	Rs.9.00 Lacs
4	PB-10GF-5448	Rs.9.20 Lacs
5	PB-10GF-2596	Rs.11.65 Lacs
6	PB-10GG-9121	Rs.13. 50 Lacs
7	PB-10GJ-4952	Rs.10.00 Lacs

7. The aforesaid facts clearly show that it is not a case of stray inadvertent omission on part of the petitioner in not mentioning the factum of hypothecation but a case where the said factum has intentionally been not mentioned repeatedly so as to be able to extend undue benefit to the purchasers who could thereafter sell off the vehicles without having paid full price for the same. The role of the petitioner needs to be thoroughly probed,

which would require custodial interrogation. As such, finding no merit in the petition, the same is hereby dismissed.

25.7.2022 **(Gurvinder Singh Gill)**
kamal **Judge**

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No