

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-3544-2022 (O&M)
Date of Decision:- 15.11.2022

Gurcharan Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. J.S. Warring, Advocate for the petitioner.

Ms. Swati Batra, DAG, Punjab,
assisted by ASI Randhir Singh.

Mr. Lupil Gupta, Advocate for the complainant/Bank.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of anticipatory bail in respect of a case registered vide FIR No. 0001 dated 2.1.2022 under Section 420 of Indian Penal Code at Police Station Sadar Bathinda District Bathinda.
2. The allegations, in nutshell, are that the petitioner had raised a loan of ₹8 lacs from the complainant/Bank by way of mortgaging his land but subsequently sold off the said land after forging and fabricating revenue record.
3. When the matter was taken up on 19.7.2022, the following order was passed :-

“Learned counsel for the petitioner is present along with his client and has submitted that although efforts have been made to work out some amicable settlement, but no amicably settlement could be brought out.

Learned counsel for the petitioner has submitted that the petitioner in order to prove his bonafides is willing to deposit an amount of Rs.3 lakhs within 15 days from today and shall also take steps to contact the Bank authorities for some amicable settlement.

In view of the aforesaid submission particularly in view of the offer made by the petitioner the petitioner is directed to deposit an amount of Rs.3 lakhs before the trial Court within 15 days. Upon such amount being deposited, the trial Court/Illaq Magistrate shall get the same invested in FDR with some Nationalized Bank with the specific direction to the Bank Manager concerned not to entertain any request for encashment except an order of the Court.

List on 12.10.2022.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

The petitioner as well as some representative from the Bank shall appear before the Mediation and Conciliation Centre at Bathinda on 2.8.2022 at 10 am to probe the possibility of compromise.

The Secretary, District Legal Services Authority, Bathinda, shall do the needful for referring the parties to some able mediator.

Mr. Lupil Gupta, Advocate, shall inform the bank authorities about the aforesaid order so that a responsible competent officer is present at Mediation and Conciliation Centre, Bathinda on the aforesaid date.”

4. The learned counsel representing the petitioner has submitted that pursuant to the directions issued on 19.7.2022, the petitioner has already deposited the amount of ₹3 lacs before the trial Court.
5. Learned State counsel has informed that pursuant to interim directions, the petitioner has joined investigation and is not required for any custodial interrogation.

6. The learned counsel representing the complainant has, however, vehemently opposed the petition on the ground that since it is a case where the petitioner had sold off his land on the basis of forged documents and has not returned any amount out of the amount of ₹13 lacs which is now due to be repaid towards loan and interest, he does not deserve the concession of anticipatory bail.
7. This Court has considered rival submissions addressed before this Court.
8. Having regard to the facts and circumstances of the case, particularly the fact that the petitioner has joined investigation and is not stated to be required for any custodial interrogation and has also deposited an amount of ₹3 lacs before the trial Court, this Court does not find it to be a case of custodial interrogation.
9. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 19.7.2022 are hereby made absolute, subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
10. The amount which the petitioner is stated to have deposited before the trial Court must have been invested in some FDR as per order dated 19.7.2022. It is clarified that the said amount shall be kept intact in FDR till the finality of the case. In case the petitioner is acquitted and such order attains finality, the petitioner shall be entitled to the proceeds of the said FDR. On the other hand, in case the petitioner is convicted and such conviction attains finality, it is the complainant/bank which shall be entitled to the proceeds of the said FDR.

11. The petition stands disposed off accordingly.

15.11.2022

kamal

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No