IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-4589-2022 (O&M)
Date of Decision:- 2.4.2022

Satwant Singh … Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Bhupinder Kaur, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab and
Mr. Anmol Singh Sandhu, AAG, Punjab,
assisted by Head Constable Kulbir Singh.

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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. 231 dated 3.10.2021 under Sections 420, 406/120-B IPC at Police Station Kotwali Nabha, District Patiala.

2. The FIR was lodged at the instance of Sandeep Puri, Branch Manager, Punjab and Sind Bank, Circular Road, Nabha, District Patiala. The allegations levelled in the FIR are to the effect that on 30.12.2014, Satwant Singh (petitioner) took a car loan of ₹5,20,000/- vide loan account No. 10901200000201 had executed requisite documents. His wife Jasvir Kaur and one Gurpreet Singh stood as guarantors for Satwant Singh. On 31.12.2014, a Demand Draft No. 501427 was issued in favour of M/s Stan Autos Private Limited, Mohali. Though, as per the terms and conditions, Satwant Singh was supposed to surrender the original bill of the car, Registration Certificate and insurance policy with the complainant bank but

he failed to do so. It is alleged that the complainant had come to know that infact all the accused i.e. the loanee Satwant Singh, the guarantors Jasvir Kaur and Gurpreet Singh and also the car agency i.e. M/s Stan Autos Private Limited, Mohali had connived with each other and the delivery of the car was shown in the record only and was a paper transaction only and that by way of this paper transaction, they had usurped the loan amount of ₹ 5,20,000/-.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that although the petitioner had initially applied for sanction of loan and which had been duly sanctioned and a draft had been prepared by the bank but at the last moment, the petitioner changed his mind and returned the draft back to the bank authorities. It is contended that the bank officials, however, instead of cancelling the draft credited the same in the bank account of the petitioner and got a draft issued in favour of M/s Stan Autos Private Limited, Mohali and against the said draft, a car was sold to Gurpreet Singh. It has, thus, been submitted that it is the bank officials who had infact connived with Gurpreet Singh and had utilized the amount which had been sanctioned in favour of the petitioner by the bank, causing loss to the petitioner. The learned counsel for the petitioner has further submitted that since the complainant bank had already instituted a civil suit for recovery of amount and had also filed complaints under Section 138 of the Negotiable Instruments Act, the present FIR is nothing but a tactics to pressurize the petitioner into payment of amount.

4. On the other hand, the learned State counsel, while opposing the petition, has made the following submissions :-

   (i) that Sandeep Puri, Branch Manager, Punjab and Sind Bank (complainant) in his statement recorded on 30.12.2014 categorically stated that Satwant Singh had taken a car loan of ₹5,20,000/- vide his account No. 10901200000201 for purchasing a Swift car wherein his wife Jasvir Kaur and Gurpreet Singh had stood guarantee. He has further stated that on 31.12.2014, the bank had paid the amount of ₹5,20,000/- vide DD No. 501427 to M/s Stan Auto Private Ltd. Mohali;

   (ii) that during investigation, it has been found that Satwant Singh in connivance with officials of the car agency - M/s Stan Autos Private Limited, Mohali had got issued a bill without mentioning the fact that the car had been hypothecated, though the same was required to be mentioned and infact even the Registration Certificate was got issued while concealing the factum of loan/hypothecation;

   (iii) that the petitioner Satwant Singh cannot feign ignorance about the loan having been fully availed inasmuch as Satwant Singh had actually paid 25 instalments out of 60 instalments from his own bank account;

   (iv) that the complicity of the petitioner is clearly evident from the fact that he did not choose to furnish the Registration Certificate to the bank authorities though, as per loan agreement, he was required to do so; and

(v) that during the course of investigation, the police recorded statement of Dalip Tondon, M/s Stan Autos Private Limited, Mohali to the effect that on 31.12.2014, Satwant Singh accompanied by his friend Gurpreet Singh had visited the car agency and had paid an amount of ₹1,13,666/- in cash apart from a Demand Draft No. 501427 for an amount of ₹ 5,20,000/- issued by the Punjab and Sind Bank. He stated that Satwant Singh while representing that he had to go for some urgent work had asked the car agency people to deliver the car alongwith bill to his friend Gurpreet Singh and on his asking, the car was delivered to Gurpreet Singh alongwith the bill issued in favour of Satwant Singh.

5. The learned State counsel has submitted that the aforesaid evidence collected during investigation clearly shows the complicity of the petitioner and the attempt on his part to defraud the bank authorities.

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

7. From the evidence collected by the police during the course of investigation, the contention of the petitioner that he had never taken the car from M/s Stan Autos Private Limited, Mohali and that the bank people in connivance with Gurpreet Singh and the car agency M/s Stan Autos Private Limited, Mohali had defrauded him stands negated. The very fact that the petitioner had paid 25 out of 60 instalments from his own bank account clearly goes to show

that he was very well aware about the loan having been utilized. Further, during investigation, it has been found that the petitioner had given the car to Gurpreet Singh who later sold the same to Ajay Kumar Gupta, which clearly shows that it was not just a paper transaction made by M/s Stan Autos Private Limited, Mohali, but a car had actually been delivered to the petitioner through Gurpreet Singh. The accused in connivance with each other managed to get Registration Certificate made by concealing the factum of the loan/hypothecation and were, thus, able to sell the car to a third person. The fact that petitioner did not even furnish the requisite documents including Registration Certificate to the bank shows that it was a well planned design to defraud the bank.

8. In these circumstances, custodial interrogation would certainly be required to find out the finer details of the entire racket. The petition, as such, is found to be sans merit and is hereby dismissed.

2.4.2022 **(Gurvinder Singh Gill)**
kamal **Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No