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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-5369-2022
Date of decision : 09.02.2022

Lakhi Ram @ Lakhi Ram Yadav

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

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VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.351 dated 05.10.2021 registered under Sections 420/467/468/471/506/120-B of the Indian Penal Code, 1860 at Police Station Nangal Chaudhri, District Mahendergarh, Haryana.

Learned counsel for the petitioner has submitted that in the present case, the present petitioner was not named in the FIR and primary allegation had been levelled against Zile Singh, who was stated to have taken a loan from Sarva Haryana Gramin Bank, Nangal Chaudhary in the year 2019 for an amount of Rs.2,28,000/- and had executed a mortgage deed. It is further submitted that neither there is any allegation against the said Zile Singh that he had not been regularly paying the installments nor the bank had filed any complaint against the said Zile Singh. It is argued that in fact, the said Zile Singh had filed a petition for grant of anticipatory bail i.e. CRM-M-47050-2021 and this Court, on 29.11.2021, had allowed the same on the conditions that an amount of Rs.2,28,000/- which was stated to have been taken as a loan by the said Zile Singh should be returned within a period of one week from the date of passing of the order dated 29.11.2021.

Learned counsel for the petitioner has referred to a document dated 29.11.2021 (Annexure P-12) which is a receipt issued by the Manager Sarva Haryana Gramin Bank to show that the entire loan has been repaid and there is no due pending against the said Zile Singh. It is submitted that Jagdish, who is the complainant in the present case, was a co-sharer in the land in question and had filed the present complaint on the allegations that the mortgage deed which had been executed was with respect to land measuring 24 kanals 18 marlas whereas, the ownership of the petitioner alongwith his brother is lesser than the said land. It is also argued that there were several disputes between the said Zile Singh and the complainant, which are pending and in one such case i.e. Civil Suit No.226 of 2019, status quo order was also passed. It is contended that as far as the petitioner is concerned, it has been alleged that the report given by the petitioner as a counsel for Sarva Haryana Gramin Bank, was not a correct report. It has further been contended that the petitioner had prepared and given the report to the best of his ability and according to the documents which were provided to him without any mens rea to accord any undue advantage or benefit to anyone. It is argued that even in case, there is any discrepancy, that cannot ipso facto lead to a conclusion about the complicity of the petitioner of any act done by him on professional front. It is further argued that no amount is due towards the petitioner or co-accused persons as the entire amount has been repaid and other accused in the present case i.e. Zile Singh, Chunni Lal and Rameshwar have been granted the concession of anticipatory bail by this Court and by the Additional Sessions Judge, respectively and even Kaptan Singh has also been granted the concession of bail. He has relied upon the ***judgment dated 21.09.2012*** passed in ***Criminal Appeal No.1460 of 2012*** by the Hon'ble Supreme Court in ***Central Bureau of Investigation, Hyderabad Vs. K. Narayana Rao***.

Notice of motion.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, 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. He has opposed the present petition for grant of anticipatory bail to the petitioner and has submitted that apart from Zile Singh, it was also on account of the wrong report given by the petitioner, who was the Panel Advocate for Sarva Haryana Gramin Bank, on the basis of which, the loan amounting to Rs.2,28,000/- was given to Zile Singh and Kaptan Singh. The other factual averments raised by the learned counsel for the petitioner, have not been disputed by the learned State Counsel.

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

It is not in dispute that the petitioner has not been named in the FIR. The primary allegation in the FIR has been levelled against Zile Singh, who is stated to have taken a loan of Rs.2,28,000/- from Sarva Haryana Gramin Bank, Nangal Chaudhary. As per the document dated 29.11.2021 (Annexure P-12), which has been signed by the Manager, Sarva Haryana Gramin Bank, it is clear that the co-accused of the petitioner has repaid the entire amount of the loan and nothing is outstanding against the co-accused. The petitioner is not the beneficiary of the said loan amount. There are no allegations in the FIR to the effect that the co-accused of the petitioner had defaulted on the payment of the installments or that the Bank had ever filed a case against the co-accused persons. Zile Singh, in whose favour, the loan had been sanctioned, has been granted the concession of anticipatory bail by this Court vide order dated 29.11.2021 passed in CRM-M-47050-2021. The petitioner is stated to be a practicing Advocate at Dantal, District Mahendergarh, Haryana and is a Panel Advocate for Sarva Haryana Gramin Bank and as per the case of the petitioner, he had given the report to the best of his professional understanding without any mens rea to provide any undue advantage/benefit to anyone and according to the documents which were available/supplied to him. The Hon'ble Supreme Court in **Central**

Bureau of Investigation's case (Supra) has held as under:-

> *"23) A lawyer does not tell his client that he shall win the case in all circumstances. Likewise a physician would not assure the patient of full recovery in every case. A surgeon cannot and does not guarantee that the result of surgery would invariably be beneficial, much less to the extent of 100% for the person operated on. The only assurance which such a professional can give or can be given by implication is that he is possessed of the requisite skill in that branch of profession which he is practising and while undertaking the performance of the task entrusted to him, he would be exercising his skill with reasonable competence. This is what the person approaching the professional can expect. Judged by this standard, a professional may be held liable for negligence on one of the two findings, viz., either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess."*

At any rate, the entire case is based on documentary evidence and thus, keeping in view the abovesaid facts and circumstances moreso, the fact that loan has already been repaid by the main co-accused, the present petition for anticipatory bail is allowed and in the event of arrest, the petitioner is granted the concession of anticipatory bail subject to his 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 petitioner shall join the investigation as and when called upon to do so.

It is made clear, in case, the petitioner fails to join the investigation or does not cooperate with the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

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.

09.02.2022 **(VIKAS BAHL)**
Pawan **JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No