IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6192-2022 (O&M)
Date of Decision:- 7.5.2022

Vishal Pawar … Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ritesh Pandey, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Raj Kumar.

*****

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered against him vide FIR No. 42 dated 19.1.2022 under Sections 420, 406, 467, 468, 471/120-B IPC at Police Station Mujessar, District Faridabad.

2. The FIR was lodged at the instance of Pankaj Kumar, Branch Manager, Indian Bank, Housing Board Colony, Sector 23-A, Faridabad wherein it is alleged that Shiv Kumar alongwith his wife Kavita Bhardwaj had approached their bank so as to avail home loan. They produced documents pertaining to property owned by Ms. Kanwaljeet Kaur which they intended to purchase. The loan application submitted by Shiv Kumar wherein his wife Kavita Bhardwaj was a guarantor was processed and a loan of ₹ 50 lacs was sanctioned on 26.9.2017. On 7.11.2017, both Shiv Kumar and Kavita Bhardwaj visited the bank to execute all the necessary formalities and upon completion of same, a Demand Draft dated 9.11.2017 was prepared in

the name of the seller Smt. Kanwaljit Kaur. The borrower and guarantor i.e. Shiv Kumar and his wife Kavita Bhardwaj assured that they would hand over the Demand Draft to the seller and get the sale deed executed and accordingly in view of the rush of customers, the Branch Manager handed over the said DD to the borrower himself. The sale-deed was accordingly executed and the sale-deed was handed over to the officials concerned in the bank. After paying a few instalments, the borrower became irregular and defaulted in payment of instalments. Consequently, the complainant accompanied by another officer i.e. Mr. Mohit Gupta visited the property on 30.12.2020 where they found that the property in question was occupied by Ms. Rashmi Rani Sharma, who claimed to have purchased the same from Ms. Kanwaljeet Kaur in May, 2018. The complainant, thereafter, applied for certified copy of sale-deed No. 7227 dated 7.11.2017 in favour of the borrower Shiv Kumar from where he came to know that no such sale-deed had ever been registered in favour of Shiv Kumar. During further inquiries made by the complainant, it was revealed that the Demand Draft in the name of Ms. Kanwaljeet Kaur had been deposited in their MSME Branch in Sector 55, Faridabad for crediting the same in account No. 6573533851 in their Branch in Sector 22, Faridabad. It was further revealed that after credit in the said account, the funds had further been transferred through RTGS. All the documents furnished including KYC documents of Ms. Kanwaljeet Kaur which had been furnished alongwith the application for loan submitted by Shiv Kumar were found to be forged and fabricated. When Shiv Kumar was confronted about the fraud, he admitted his involvement and further stated that it is Vishal Pawar (petitioner), who is mastermind of the entire fraud and that he (Shiv Kumar) got trapped in his net.

3. The learned counsel for the petitioner has submitted that even as per the FIR he is not the beneficiary of any loan amount and has simply been nominated by Shiv Kumar who made a broad sweeping statement to the effect that the petitioner is the mastermind of the fraud whereas there is no such evidence to show the involvement of the petitioner in the alleged fraud. It has further been submitted that infact the entire fraud had been played by the loanee in connivance with the bank officials, who intentionally did not conduct requisite verification and committed several irregularities to avoid detection so as to share the amount of loan so sanctioned by them in favour of Shiv Kumar by resorting to illegal means.

4. On the other hand, the learned State counsel, while opposing the petition, has referred to the reply dated 5.3.2022 in the shape of affidavit of Shri Devender Kumar, Assistant Commissioner of Police, Economic Offences Wing, Faridabad and also to status report dated 17.3.2022 and status report dated 30.4.2022. The learned State counsel has submitted that during the course of investigation, the police has collected concrete evidence to establish the involvement of the petitioner and that since the loanee Shiv Kumar in his disclosure statement has also categorically stated as regards the involvement of the petitioner, his complicity is clearly evident.

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

6. The petitioner is specifically named in the FIR wherein it is stated that it is the loanee Shiv Kumar, upon being confronted, had disclosed that it is the petitioner, who is the mastermind of the fraud. From perusal of the reply and

the two status reports filed by the State, it does appear that the investigating agency has been able to lay its hands on certain documents/evidence pointing towards the involvement of the petitioner. The said documents/evidence may briefly be stated as follows :-

(i) It has been found that when the Demand Draft for ₹ 50 lacs was to be handed over to the loanee, the petitioner was very much present in the bank and that infact it is he who had received the bank draft, as would be evident from Annexure R-3 (sanction ticket) which bears his signatures. Though, the learned counsel for the petitioner has disputed the said document on the ground that there are some cuttings in the same but the said aspect is a matter to be considered after the petitioner joins investigation or during trial and at this stage the existence of signatures would *prima facie* show the involvement of the petitioner.

(ii) The police during investigation has found that the petitioner had got opened an account in the bank in Sector 55, Faridabad Branch of Indian Bank in the name of Ms. Kanwaljeet Kaur and that the petitioner alongwith a lady has visited the bank while introducing the said lady as Ms. Kanwaljeet Kaur. It has been found that it was in the said bank account that the Demand Draft in respect of loan amount of ₹ 50 lacs was initially credited from where it was further transferred to various other bank accounts through RTGS. The police has recorded the statement to this effect of Shri Anil Singh Negi, Branch Manager, Indian Bank. The said statement is annexed as Annexure R-10.

(iii) During the course of investigation, the police has collected evidence to substantiate that upon credit of the said amount of ₹ 50 lacs in the account of Ms. Kanwaljeet Kaur in Sector 55 Branch, various amounts were transferred through RTGS in accounts of various firms. It has been found that the *modus operandi* of the petitioner was that he did not use his personal account for committing the fraud and rather got the amounts deposited in various firms and thereafter used to get the amount back in cash from proprietors of the said firms. The police has recorded statement of one Kailash Chawla who has stated that he is an Accountant and that previously he had worked as Accountant with Pankaj Bohra, who used to do the business of scrap and trading and was proprietor of two firms namely Umang Enterprises and Vintage Enterprises and that he used to handle the accounts of the said firms. He categorically stated that Vishal Pawar was a loan agent and used to visit Pankaj Bohra and they used to work together as Vishal Pawar was also having a firm by the name of Vashnavi Enterprises. He stated that as per his knowledge, Vishal Pawar used to make transactions in the account of Pankaj Bohra and used to arrange bank loan for people and used to make money transactions and used to collect the amount withdrawn from the account holders in cash for transfer to some other account. A copy of the statement of Kailash Chawla is annexed as Annexure R-9.

(iv) The police during investigation has also recorded the statement (Annexure R-12) of one Kamal Kant who has stated that in the year

2013, he had been working with Pankaj Bohra as a Peon and that Vishal Pawar used to visit Pankaj Bohra while representing himself to be a loan agent. He stated that Vishal Pawar and Pankaj Bohra had asked him to open two bank accounts in his name which would be operated by them as the same was necessary for running their business and told him that he was just required to sign some cheques and would be given an amount of ₹ 5,000/- to ₹ 7,000/- for the same. He categorically stated that Vishal Pawar and Pankaj Bohra got opened his account in State Bank of India bearing No. 65234995575 in the name of his firm Ujjawal Sales and another account in Central Bank of India bearing No. 3536155024 in the name of another of his firm namely Tushar Enterprises. He stated that he had no knowledge that any amount of ₹9.5 lacs had ever been deposited in said SBI account or that an amount of ₹ 8 lacs had been deposited in Central Bank of India account and that the said amount had been received by Vishal Pawar and Pankaj Bohra and that he used to sign cheques.

(v) The police during investigation has also recorded statement (Annexure R-11) of one Rajesh Kumar Gogia, who has also stated on similar lines as stated by Kamal Kant as regards getting an account opened in Central Bank of India bearing No. 3569635068 in the name of Narain Enterprises and that he never knew that an amount of ₹ 6,72,000/- had been credited in the same. He stated that Vishal Pawar and Pankaj Bohra used to call him and used to take 2-3 signed cheques from him every week in return for an amount of ₹ 1000/- to ₹ 2000/- as expenses.

(vi) Apart from above referred evidence, the police has also collected some evidence in the shape of voice recording as regards telephonic conversation between the petitioner and Shiv Kumar, the transcripts of which have been placed on record as Annexure R-13 to Annexure R-15 which also point towards the complicity of the petitioner.

7. In view of the aforestated position, it is apparent that the petitioner has committed the fraud while being very careful not to make direct monetary transactions in his own bank accounts so as to avoid detection. However, the evidence in the shape of disclosure statement of Shiv Kumar as well as the statement of various Bank Managers/Accountant/other private individuals clearly show that the petitioner is the mastermind of the entire fraud. In these circumstances, the custodial interrogation of the petitioner is certainly required to unearth all the finer details of the racket as well as to find out other instances of fraud, if any.

8. The petition, as such, is found to be sans merit and is hereby dismissed.

7.5.2022 **(Gurvinder Singh Gill)**
kamal **Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No