

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-15886-2022
Decided on : 20.04.2022

Dalbir Singh

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. I. S. Kooner, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 16 dated 28.01.2021 under Sections 420, 465, 467, 468, 471 and 120-B of Indian Penal Code, 1860 registered at Police Station City Rajpura, District Patiala.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was posted as Patwari only for a period of 4 days from 27.08.2013 to 30.08.2013 and the report dated 29.08.2013 was made by him on account of inadvertence. It is further submitted that it is the main accused Gurwinder Singh, who has committed fraud with 8 Banks, inasmuch as, 5 loans have been taken prior to the present loan and two subsequent loans were also taken from different Banks. It is further submitted that the dispute in the present case is a civil dispute and the Banks have filed their cases before the DRT. It is argued that in the

present case, the application, on the basis of which the present FIR has been registered, was dated 08.09.2017 and was filed by Deepak Kamboj, manager of Allahabad Bank, Zirakpur, District Mohali but however, the FIR was registered on 28.01.2021 i.e. after a delay of several years. It is further argued that nothing is to be recovered from the petitioner and the entire case is based on documentary evidence and thus, the petitioner should be granted the concession of anticipatory bail.

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

A perusal of the application would show that after the initial application was given by Deepak Kamboj, Manager Allahabad Bank, the statement of Harkewal Singh, Manager, SBI Branch, Patiala road, Rajpura was recorded, who had specifically stated that Gurwinder Singh had taken a loan from their Bank and had mortgaged his land. It is alleged that it was learnt that the said Gurwinder Singh had earlier mortgaged the same land to 5 different Banks and there were 5 different mortgage deeds executed and the sixth one was with the State Bank of India Branch, Patiala Road, Rajpura. It was also alleged that the same had been done by Gurwinder Singh in connivance with revenue officials, who had given a no encumbrance report whereas, it was their duty to have pointed out the said fact in the certificate issued by them. As per the further prosecution case, which is apparent from the order dated 06.04.2022, it has specifically surfaced that the present petitioner was Patwari of the said area and in order to facilitate the grant of loan to the

main accused against the security of the said land, he had issued a copy of Jamabandi wherein notes regarding the land being under mortgage in 5 other cases had not been given. The present petitioner, who was a Patwari, had made report dated 29.08.2013 to the effect that the loan in question was free from encumbrances and thus, it was on account of the report made by the petitioner that led to the loan being advanced to Gurwinder Singh (co-accused). It is further the case of the prosecution that the present petitioner intentionally gave a wrong copy of the Jamabandi and made a wrong report in order to facilitate the fraud committed in the present case on account of which it has become very difficult for the Banks to recovery money which had been given as loans on the basis of the wrong report given by the petitioner. Before this Court, it has not been disputed that the petitioner had prepared a wrong report or anything has been produced to dispute the same but it has been argued both before this Court and before the Court of Sessions Judge, Patiala that the petitioner had inadvertently made the said report. It is a matter of settled procedure that the Patwari has to give a report on the basis of the record and in the present case, as per the allegations the present petitioner, who was a Patwari, at the relevant time, had given a wrong copy of Jamabandi, thus, facilitating the fraud which has been committed and the Bank in question is finding it very difficult to recover the amount of money due from Gurwinder Singh. The argument of the petitioner to the effect that the same has been done inadvertently in fact, goes against the petitioner, as it shows that the factum of making the

wrong report has not been disputed. Persons manning public offices are required to conduct with due care as certificates issued by them are recognized by various institutes and any false/wrong certificates issued, could cause serious financial prejudice to the various public institutes/Banks. Thus, the petitioner has, *prima facie*, committed the offences alleged in the FIR and even the custodial interrogation of the petitioner would be necessary in order to find out the *modus operandi* adopted and also to ascertain the role of various persons in defrauding the Bank in question. The fact that the Bank has instituted proceedings for recovery would not in any way help the petitioner inasmuch as, when the fraud/forgery had come to light, the present FIR has been registered. In the present case, even an enquiry is stated to have been conducted by the Economic Wing and thereafter, the FIR has been registered. Although, there is some delay in the same but since, *prima facie*, the petitioner has committed the offences in question, thus, this Court feels that the petitioner does not deserve the concession of anticipatory bail.

Accordingly, the present petition is dismissed.

However, 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.

(VIKAS BAHL)
JUDGE

20.04.2022

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No