

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.**

**208**

**CRM-M-26290-2022  
Date of decision: 14.07.2022**

ARCHANA YADAV

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**

Present : Mr. Himmat Singh Deol, Advocate  
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.  
for the respondent-State.

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**SURESHWAR THAKUR, J. (ORAL)**

1. The instant petition has been filed under Section 438 Cr.P.C., wherein, the petitioner seeks the indulgence of this court for grant of anticipatory bail.

2. FIR No. 09 dated 08.01.2019 is registered at Police Station Dhand, District Kaithal, therein, offences constituted under Sections 406, 420, 467, 468, 471, 120-B of the IPC (Sections 201, 409 of IPC added later on), are embodied.

3. The learned Counsel appearing for the bail petitioner, does not dispute the fact, that she had made disbursements of loans, qua the persons as mentioned in the instant FIR. However, he submits that the disbursements of loans, as made by her, was in her capacity, as the sanctioning authority besides were a sequel of hers bonafidely believing the apposite reports, as became presented to her, through

office notings, as prepared by the officers/officials working below her.

4. If so, as a sanctioning authority, *prima facie*, she in making the sanctioning order(s) is to be presumed to, rather not act in a perfunctory, and, mechanical manner, contrarily, she is to be presumed to be bereft of any penally inculpable *mensrea*, make exercises of her powers hence as a sanctioning authority, and, obviously rather *prima facie* bonafidely. The above made inference becomes fortified, from the factum that, the tainted disbursements of loans to the borrowers concerned, is alleged by the prosecution to be a sequel of the property mortgaged, by them to the Bank, rather being falsely reported by the field officials/officers concerned, to be free from encumbrances, whereas, subsequently it was discovered, that the properties were under mortgage, and, as a sequel, the bank became precluded to redeem, through the sale of the mortgaged property, rather the borrowings concerned, as, made by the loanees concerned, therefore, the inculpable offences, as carried in the FIR are alleged to be committed by the present bail petitioner. However, even if the bank officials concerned, hence subordinate to the bail petitioner concerned, may have with inter-se connivance with the revenue officers concerned, rather prepared false certificates with respect to the properties concerned, being free from encumbrances, thereupon, the belief as meted thereto, by the present bail petitioner, cannot be concluded to be suffering from any *mala fides*, nor, is to be concluded that she reared any penally inculpable *mensrea*. The reason being that she was not the author of the false reports concerned, nor, it was incumbent upon her, as, the

manager of the bank concerned, to make through visiting the revenue officer concerned, investigations into the correctness, or, otherwise of the certificates, as became depended upon her, for releasing loans to the borrowers concerned.

5. In addition, since the disciplinary authority, has not rather terminated her services, nor, has dismissed her from service on the grounds of moral turpitude, rather has imposed upon her the penalty of reduction in rank of two stages, besides of stoppage of increments, during the period of reduction(s). Therefore, since the disciplinary authority has also not imposed the above stringent penaltie(s), thereupon, it is to be concluded, that it also made a conclusion, that the present bail petitioner, did not, with any element of moral turpitude, make the relevant disbursement(s) to the loanees concerned.

6. Given the above, and also, when the learned State Counsel submits, that during the course of the investigating officer concerned conducting, the investigations into the petition FIR, the bail petitioner has rendered her fullest co-operation to him, and, besides when no evidence is adduced before this Court by the prosecution, suggestive of the fact, that in the event of the petitioner, becoming admitted to anticipatory bail, there is every likelihood of hers fleeing from justice, and, tampering with the prosecution evidence, therefore this Court becomes constrained to admit the present petitioner to anticipatory bail.

7. In nutshell, the instant petition is allowed, and, the order made by this Court on 13.06.2022, is made absolute subject to her rendering co-operation to the investigating officer concerned, and, hers

not influencing the prosecution witnesses, and, also hers not tampering with the prosecution evidence.

8. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from the FIR (supra).

14.07.2022  
kavneet singh

(SURESHWAR THAKUR)  
JUDGE

*Whether speaking/reasoned* : *Yes/No*  
*Whether reportable* : *Yes/No*