IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM-M-53395-2021
Decided on : 02.02.2022

Rajesh Kumar (Ex. Branch Manager)

. . . Petitioner

Versus

State of Punjab

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. Jitender Singh Dadwal, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

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VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for the grant of concession of anticipatory bail to the petitioner in case FIR No. 287 dated 19.11.2021 under Sections 420, 465, 467, 468, 471 and 120-B IPC registered at Police Station Moti Nagar, District Ludhiana.

The FIR in the present case was registered on the complaint of Abhishek Jain, Branch Manager of State Bank of India wherein it has been alleged that the petitioner was the Branch Manager/Branch Head of State Bank of India, Link Road Branch, Ludhiana from 16.07.2018 to 06.06.2020 and accused No. 2 to 66 were the borrowers/ direct beneficiaries of the loan accounts and accused No. 67 to 70 were the middlemen who played a key role in getting the "Xpress Credit Term Loan" sanctioned on the basis of forged and fabricated documents in favour of accused No. 2 to 66. It is alleged that the complainant Bank had an Express Credit Scheme for the regular employees of Government/ Private Institution/ organization who were maintaining salary accounts with the complainant Bank and as per the scheme, the Bank had offered loan facility to those employees on comparatively low rate of interest without asking for any collateral security and the said loans were granted after due diligence such as KYC verification, salary related documents verification, CIBIL verification etc. During the said period, the petitioner was the Branch Manager of the Bank, accused No. 2 to 66 were given loans and it was found that the said loans were given on the basis of the forged and fabricated documents in relation to the employment of the borrowers. It had further been found that the total loan given to the said persons was to the tune of Rs.3,20,00,000/- in 26 loan accounts. After due enquiry, it was found that the petitioner, in connivance with the said accused persons and the middlemen, had got the said loan sanctioned by misusing forged and fabricated documents and only an amount of Rs.25,000/- to Rs.30,000/- was given to the beneficiaries whereas, the remaining amount was misappropriated by the petitioners and his other accomplices. On the basis of the same, the petitioner was sought to be proceeded against.

Learned counsel for the petitioner has submitted that in the present case, no amount has been shown to have come into the account of the petitioner and most of the beneficiaries had been returning the loan amount through installments but it was only on account of COVID-19 pandemic that thereafter, the payments could not be made and it had further been argued that the proceedings for recovery of the amount including complaint under Section 138 of the Negotiable Instruments Act and recovery suits have already been instituted by the Bank against the said 65 beneficiaries. It has further been argued that it is only the petitioner alongwith other four alleged middlemen who have been arrayed as an accused and other persons who are beneficiaries have not been made accused in the present case. It has been submitted that the petitioner is not involved in the alleged offence and thus, the petitioner deserves the concession of anticipatory bail.

On the other hand, learned State counsel has opposed the present application for anticipatory bail and has submitted that even a perusal of the status report, which has been submitted by way of affidavit of Simranjit Singh, PPS, Assistant Commissioner of Police, Industrial Area-A, Ludhiana on behalf of respondent-State would show that all the 65 persons who were stated to be the beneficiaries and who were used by the petitioner and the other accused persons, who siphoned off the money of the Bank, have almost the entire loan amount outstanding against them. It is submitted that only a mere few thousands out of the loan amount has been paid and nothing further has been paid. It is also argued that all the 65 persons are defaulters and it is not a case that only some of the persons, to whom the loan had been given to when the petitioner was the Branch Manager, were defaulters. It is further submitted that upon enquiry, it has been found that forged and fabricated documents have been used to falsely show that the said persons were in employment and the same was done during the tenure of the present petitioner as Branch Manager, who in collusion with the other accused persons, had got the loans sanctioned illegally. It has been alleged that the petitioner was entrusted with the power of sanctioning loan by the complainant Bank and the petitioner has misused that power and has committed the offence of criminal breach of trust and thus, has defrauded the Bank to the tune of Rs. 3.20 crores, approximately. It has further been submitted that the said 65 beneficiaries were in fact illiterate persons and upon enquiry, it was found that only a meagre amount ranging from Rs.25,000/- to Rs. 30,000/- had been paid to them whereas, the remaining amount was used by the petitioner and the other co-accused persons. It has further been stated that the petitioner has committed a heinous offence and his custodial interrogation is required.

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

As per the allegations levelled in the FIR as well as the averments made in the status report, it is clear that it is the present petitioner who was the Branch Manager/Branch Head for the period starting from 16.07.2018 to 06.06.2020, when as many as 65 persons were sanctioned and advanced loans under the scheme 'Xpress Credit Term Loan'. It is the petitioner who had been entrusted with the power of sanctioning loans by the complainant Bank and it is on the basis of forged and fabricated documents that 65 persons were advanced loans to the tune of Rs.3.20 crores. The said loan was only to be given to a person who was a regular employee of the Government/Private institutiond/ organisations which maintained salary accounts with the complainant Bank and thus, it was incumbent upon the petitioner to carefully verify the documents submitted before having released loans to the said persons, which ultimately resulted in the loss of Rs.3.20 crores to the Bank. A perusal of the status report would also show that all 65 persons, who were given the benefit of the loan during the tenure of the petitioner as Branch Manager of the complainant Bank, have turned out to be critical defaulters. Only a few thousands, out of the entire loan amount, have been returned and the remaining amount is outstanding against each one of them. It is not a case where only a handful of people who had been given the loan had defaulted, rather, all said 65 persons are the persons who have defaulted. It has been found in the enquiry that the said persons are illiterate persons and were only paid a meagre amount ranging from Rs.25,000/- to Rs.30,000/- out of the entire loan amount whereas, the remaining amount of loan has been used by the present petitioner and the other 4 co-accused persons, who in connivance with the petitioner, had got the loans sanctioned on the basis of forged and fabricated documents.

In view of the fact that there are specific allegations against the petitioner and public fund/money to the tune of Rs.3.20 crores has been misappropriated, thus, the custodial interrogation of the petitioner is necessary and accordingly, the present petitioner does not deserve the concession of anticipatory bail and thus, the present petition is dismissed.

However, nothing stated above shall be construed as a final 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

February 2nd, 2022
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Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No