

**107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-5394-2023

Date of Decision: 02.02.2023

Arvind Kumar

..... Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sanjeev Kumar Aggarwal, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

Prayer in the present petition is for the grant of anticipatory bail to the petitioner in a case FIR No.485 dated 13.11.2021, registered under Sections 406, 418, 420, 467, 468 and 471 IPC at Police Station Taraori, Karnal, District Karnal.

As per facts of the case, the FIR in question was lodged by the Bank Manager. The sum and substance of the allegations made by the Bank Manager in the FIR is that Arvind Kumar i.e. the petitioner has availed a loan of Rs.22,90,000/- from the complainant-Bank. On the basis of the documents submitted i.e. the Jamabandi for the year 2012-13 of land measuring 94 kanals 2 marlas, the Bank duly released the amount to him. However, after having been released the amount of loan, it was found that Jamabandi for the year 2012-13 submitted to the Bank by the petitioner, Arvind Kumar for obtaining the loan was forged and fabricated. The petitioner was found to be not the owner of the land as mentioned in the Jamabandi for the year 2012-13. It was found that the petitioner Arvind Kumar in connivance with the revenue officials has submitted the forged and fabricated document i.e. Jamabandi to the Bank and thus,

request was made to lodge the FIR and take the legal action against all the culprits involved in deceiving the Bank. On the basis of the registration of the FIR, investigation commenced. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Karnal for grant of anticipatory bail, who after hearing both the sides, declined the same vide order dated 02.12.2022. Aggrieved by the same, the petitioner has approached this Court praying for grant of anticipatory bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He has submitted that the Bank while sanctioning the loan in favour of the petitioner had followed the due procedure and had verified the title of the land and other relevant facts to its satisfaction and on verification of all the documents submitted to the Bank, the loan was released to him. He has submitted that the documents submitted were sent to the concerned revenue officers i.e. Patwari, Tehsildar etc. and then the loan was transferred. He has submitted that the complainant-Bank had issued OTS (One Time Settlement) notice to the petitioner and asked him to pay Rs.2 lacs towards one time settlement. He has submitted that the petitioner duly deposited Rs.2 lacs and despite that the complainant-Bank filed a recovery suit before the Debt Recovery Tribunal (DRT-II), Chandigarh. He has further submitted that the complainant-Bank has also filed a case regarding the disputed loan before the Permanent Lok Adalat. He has submitted that it is apparent that the Bank had intentionally implicated the petitioner in a false criminal case. He has submitted that the petitioner has no criminal antecedent and thus, he deserved to be granted anticipatory bail.

Heard.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner had been sanctioned a loan of Rs.22,90,000/- by the complainant-Bank about 10 years ago. The petitioner submitted the documents pertaining to security of loan granted by the Bank, however, lateron it was found that Jamabandi for the year 2012-13, which was submitted by the petitioner before the Bank was forged and fabricated. The petitioner projected himself to be owner of the land measuring 94 kanals 2 marlas, which was kept as security with the Bank. However, after some time it came to the notice of the Bank that the petitioner is not the owner of the land measuring 94 kanals 2 marlas as per the original Jamabandi for the year 2012-13. *Prima facie*, it is apparent that the documents pertaining to the revenue record are forged and fabricated and there is probability of involvement of other persons as well from the Revenue Department and concerned Bank also, which needs a thorough and fair investigation.

Hon'ble the Supreme Court in State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person

being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disintering offences would not conduct themselves as offenders.”

The Hon’ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances. Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner do not qualify for exercising the extraordinary power by this Court in their favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

02.02.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No