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

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CRM-M-13444-2023

Date of decision : 26.07.2023

Gurdeep Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Ankur Bansal, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Prayer is for grant of regular bail in FIR No.19 dated 02.02.2018, registered for the offences punishable under Sections 406, 419, 420, 465, 467, 468, 471 and 120-B of IPC at Police Station Shahkot, District Jalandhar.

2. As per the allegations levelled in the FIR, it has been alleged as under:-

“Complaint 700-PTOO dated 1-8-2016 & 1590-PTM dated 31-12-2016 To The SSP Sahib (Rural) Jalandhar Sub:- Application for lodging FIR against:-(1) Gurdeep Singh s/o Sadhu Singh S/o Makhan Singh (ii) Dalora Singh s/o Sadhu Singh S/o Makhan Singh Both residents of village Yusafpur Darewal, Tehsil Shahkot, (iii) Beant Singh s/o Mal Singh r/o village Chuchak Wind (iv) Some other unidentified persons. For committing cheating and fraud with the applicant/complainant

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i.e. Manager Primary Cooperative Agriculture Development Bank Ltd. Branch Shahkot U/Section 420/467/468/471 and 120-B IPC and other relevant sections of IPC. Sir The applicant/Complainant respectfully submits as under:-1. That the applicant is a Manager of Primary Cooperative Agriculture Development Bank Ltd. and has been working at present in the Shahkot Branch and main tasks of the applicant bank are advancing agriculture loans after mortgaging the land in favour for agriculture purpose, repair of house, crop loan etc.2. That the Gurdeep Singh accused no. (i) and Dalora Singh accused no. (ii) are loanees of the applicant bank. Gurdeep Singh accused has availed four loans for different purposes and similarly Dalora Singh accused had availed two loans from the above said applicant bank. Copy of Loan Ledger is attached 3. That accused Beant Singh s/o Mal Singh accused no.3 working as Taxi man with the bank since year 2009 with Kulbir Singh Sandhu and Pardeep Kumar Managers. The bank apprehends that these 12 stolen clearance certificates have been stolen by accused no.3 and certificate no. 000462, 000463, 000568, 000529 belongs to the accused no.1 Gurdeep Singh s/o Sadhu Singh have been filled in my handwriting of accused no.3 handwriting of accused no.3 as per my knowledge is also lying with the bank. 4. That the accused no.1 had availed four loans for different purposes detailed as under:- (i) First loan for the purpose of KCC. NFS of Rs.4,90,000/- and interest upto 31.3.2016 Rs. 2,87,865/- total amount Rs.7,77,865/- vide dated 14.09.2011. (ii) Second loan for Rs.3,00,000/- for the purchase of agriculture implements availed on

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19.9.2011, interest upto 31.3.2016 Rs.1,42,605, total amount Rs. 4,42,605/- (iii) Third loan for Rs. 3,00,000/- KCC (Agriculture) and interest upto 31.3.2016 Rs.1,72,002/- total amount Rs.4,72,002/- (iv) Fourth loan Rs.2,00,000/- for the repair of house and interest upto 31.3.2016 Rs.1,13,800/- total amount Rs.3,13,800/-Total loan amount with interest due towards accused no. 1 = Rs. 2106272/- upto 31.3.2016. The bank applicant bank has started campaign for consulting the top 50 persons defaulters of the applicant bank and bank manager asked the field staff to check of record of defaulter loanees and to report and also persuade the defaulter loanees to repay the loan with interest to the bank. The applicant/complainant Manager has joined this bank on 14.01.2016 and in April 2016 he directed his field staff to check the online record of top 50 defaulters of the bank and to report and also persuade the defaulter loanees to repay the loan with interest to the bank. 5. That after verifying the record and information received from the accused no. 1 the bank found that the land has been redeemed by fraudulent way by the said accused on the basis of false loan clearance certificate. 6. That Manager of the bank filed an application before the Tehsildar Shahkot on 13.6.2016 and demanded that direct the concerned patwari halqa of the above said accused to show the record/Roznamcha vakayati and after that the bank employee met the concerned halqa Patwari and found that the mortgaged land has been redeemed as per the record of patwari halqa and staff has received the photocopy of the alleged clearance certificate of mortgaged land of the accused no. (i) and (ii) and tallied with the

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record of the bank and found that no such loan has been paid by the accused no. 1 & 2 to the bank also searched the record of book of clearance certificate produced by the accused no. 1 & 2 and found that 12 loan clearance certificate are missing from book of clearance certificate along with carbon copy i.e. Sr. No. 000462, 000463, 000465, 000466, 000529, 000549, 000567, 000568, 000525, 000553, 000546 & 000556 and out of those alleged fraudulent clearance certificate bearing no 000462, 000463, 000529, 000568 belong to the accused no.1 Gurdeep Singh s/o Sadhu Singh and remaining 8 stolen certificates so far have not been traced out till date. The bank apprehends that these certificates may be used by other unidentified persons i.e., loanees of the bank and enquiry regarding these are continuous for the tracing out of these certificates. The bank started crop Rabbi seasons from 15.4 to 30/6/year. Similarly from Khariff starts from 15.10 to 31.1 of every year. 7. That the accused no.1 & 2 had got released their land on the basis of false and fraudulent bank clearance certificates dated 29.4.2015, 22.8.2018, 23.2.2016 and they have committed a fraud with the applicant bank and prepared and used the same and they have got benefit from the alleged clearance Certificate. 8. That the bank apprehends that some other unidentified persons are also involved in the present scam. 9. That alleged redeem of land certificates (clearance certificates) are result of fraud, misrepresentation connivance of some other unidentified persons and used them for their own benefit and accused no. 3 has also got some own benefit from the said alleged clearance certificate.

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10. That two alleged forged clearance certificates belong to accused Dalura Singh son of Sadhu Singh R/o vill. Yusafpur Darewal, Tehsil Shahkot have been printed by the accused from anywhere and their Sr No. does not tally with the Sr No of Bank clearance certificates, this means that the certificates used by accused no.2 belong to different series. Those persons also accused in this case, who printed these two certificates at the instance of accused no.2 and this is also matter of investigation.

11. That all the accused committed a fraud, cheating with applicant bank and used the alleged redeem certificates for their own benefit and get the benefit of these alleged certificates, hence the accused have committed offence under section 420/467/468/471 and 120-Bs IPC and other relevant section of IPC. Photocopies of the alleged certificates filled with the Complaint. 12. It is therefore prayed that a strict action be taken against the accused person and other persons involved in the scam and FIR be registered against accused and other persons involved in the scam. Sd/- Milton Singh Manager The Primary Cooperative Agriculture Development Bank Ltd. Branch Shahkot 98153-99496.

The above said application was marked for enquiry by SSP Jalandhar to DSP Shahkot. DSP Shahkot in his report has written that Gurdeep Singh, Dalora Singh sons of Sadhu Singh r/o Yusufpur Darewal PS Lohian and Beant Singh s/o Mal Singh r/o Chuchak PS Mallawal District Ferozepur in connivance with each other prepared forged clearance certificates, used the same in the revenue department for getting the land free from mortgage and again get the land mortgaged with some other bank and created limits on it has committed fraud of

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Rs.32 lacs with Primary Cooperative Agriculture Development Bank Shahkot. If any employee of the bank and revenue department is found to be involved in this case, then he will be considered during the investigation of the case. In the light of the circumstances that have emerged so far based on the enquiry, case be registered against Gurdeep Singh, Dalora Singh sons of Sadhu Singh r/o Yusufpur Darewal police station Lohia and Beant Singh son of Mall Singh community Jat resident of police station Mallawala district Ferozepur under section 420,406,465,467,468,471,120-B IPC at police station Shahkot and sent this report to the service of Hon'ble SSP Sahib Jalandhar Rural. Honorable SSP Sahib wrote about taking opinion from DA Legal. On which DA Legal gave his opinion Sub:-Complaint 700-PTOO dated 1-8-2016 & 1590-PTM dated 31-12-2016 from Milton Singh Manager, The Primary Cooperative Agriculture Development Bank Ltd Branch Shahkot, Jalandhar. Sir, I have gone through the facts of this filed by Milton Singh, Manager. The primary cooperative Agriculture Development Bank Ltd, Branch Shahkot along with inquiry report conducted by DSP/Shahkot, Jalandhar (Rural) as well as other documents attached with the file. As per the allegations leveled by the Complainant that Gurdeep Singh & Dalora Singh availed loans for different purpose after mortgaging the agriculture land. The Complainant also alleged that after verifying the record it found that the land was redeemed fraudulently by Gurdeep Singh & Dalora Singh on the basis of false loan Clearance Certificate of bank the mortgaged land redeemed

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after giving false loan Clearance certificate of bank and the clearance certificates have been filled by Beant Singh who is working in the bank as a taxi driver as they are not paying the loan. During the inquiry it came to light that Gurdeep Singh, Dulara Singh & Beant Singh in connivance with each other got prepared false and fabricated loan clearance certificates of the bank and Gurdeep Singh & Dalora Singh got released their land from Revenue Department by using this forged & fabricated certificate. So, being in agreement with the findings of inquiry officer, I am of the opinion that prima facie case u/s 420/406/465/467/468/471/120-B of IPC is made out against Gurdeep Singh, Dalora Singh & Beant Singh within the jurisdiction of PS Shahkot. During the investigation the role of other bank officials be also probed, if they are found guilty and they be arrayed as accused in this case. The case may be registered, if approved, Sd/-S. Kahlon 10-01-18 Distt Attorney Legal Jalandhar. On which SSP Sahib Jalandhar Rural wrote that SHO Shahkot to register and investigated. Sd/- SSP Jalandhar Rural.

Today at Police Station-The above application along with enquiry report is received and FIR is registered under relevant sections and original FIR and file is handed over to AS1 Gobinder Singh. Control room be informed. Rapat no. 36 dated 02.02.2018 at 9:10 PM.”

3. Counsel for the petitioner submits that a bare perusal thereof would reveal that so far as the allegation qua forgery is concerned, the same is qua Beant Singh son of Mal Singh. There is no allegation qua forgery against the petitioner. The petitioner is only

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stated to be beneficiary of the forged 'no objection certificate'. The aforesaid Beant Singh has been found to be innocent as reflected in paras No.9 and 16 of the reply filed by the State which read as under:-

“9. That it is respectfully submitted that during the course of investigation, the co-accused Beant Singh has given a representation bearing no. 243/Peshi dated 27.02.2018 to the Senior Superintendent of Police, Jalandhar (Rural) wherein the said accused have claimed himself as innocent and requested to investigate his role in depth. The contents mentioned by the said accused Beant Singh in the above-said representation have been examined by Police during the course of investigation and it has been found that the said alleged accused Beant Singh has not played any role in the alleged use of alleged 'Clearance Certificates' by the co-accused Gurdeep Singh and Dilor Singh for getting their land redeemed from the concerned Revenue officials. Therefore, the above said Beant Singh has been found as innocent in the above said FIR and entry in this regard has been made vide Case Diary No.18 dated 11.12.2018.

16. That the specific role of the petitioner Gurdeep Singh in the above said FIR is that he took 4 different loans from above-said bank against his land which was mortgaged to the bank and an amount of approximate Rs 21 lakhs was due towards the petitioner upto 31.03.2016. The petitioner arranged four 'clearance certificates' bearing nos. 000462, 000463, 000529, 000568 of the above-said bank by fraudulent means and he presented the same to the concerned Revenue officials for getting his land redeemed from the

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revenue record and accordingly, he managed to redeemed his land. During course of investigation, it has been found that the said 'clearance certificates' were not issued by the Manager of above-said bank and even the petitioner has not returned his loan amount to the above-said bank. Hence, the petitioner got redeemed his land from revenue record by producing forged "clearance certificate'."

4. Counsel further submits that co-accused Dalora Singh also stands admitted to bail by the Lower Court vide order dated 03.09.2022. The petitioner is behind bars since 18.01.2023. The offence is triable by Magistrate, investigation already stands concluded and challan stands presented. All the evidence concluded in form of documents and thus there cannot be any apprehension that the petitioner shall tamper with the evidence, thus the petitioner is entitled for relief of bail.

5. Per contra, Mr. Shukla submits that the conduct of the petitioner disentitles him for grant of regular bail having been declared as proclaimed offender and has arrested thereafter on 18.01.2023 only.

6. I have heard counsel for the parties and have gone through the records of the case.

7. Without expressing any opinion on the merits of the case, this Court finds that keeping in view the fact that there is no allegation qua forgery against the petitioner and Beant Singh has been given clean chit by the investigation authority, the petitioner having faced incarceration for more than 06 months and the investigation already having been concluded, it will be a case for grant of bail.

8. Consequently, the present petition is allowed. The

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petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

9. Needless to say nothing recorded herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

26.07.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No