

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-17443-2023

Date of decision : 13.04.2023

Simrandeep Singh

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Rajbir Singh, Advocate for
Ms. Manpreet Kaur, Advocate for the petitioner.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.197 dated 30.09.2021 registered under Sections 420, 465, 467, 468, 471 and 120-B of the Indian Penal Code, 1860 at Police Station Bhawanigarh, District Sangrur.

Brief facts of the case are that the above-said FIR was registered on a complaint made by Rahul Bansal, Manager, ICICI Bank Ltd., Bhawanigarh alleging that the petitioner on the basis of forged documents and by hatching conspiracy with Gurinder Singh, Development Officer took loan from the bank under KCC Loan Scheme. During investigation, it was found that the petitioner in connivance with Manjit Singh, Patwari committing forgery of revenue record and availed loan to the tune of Rs.13,17,600/-.

Learned counsel for the petitioner submits that the

petitioner has been falsely implicated in the present case. From the inquiry it was found that the revenue record was tampered by Patwari-Manjit Singh who after preparing the documents pertaining to land of Gurvinder Singh processed the loan of the petitioner and get the approval of the same. Out of the loan amount, the petitioner has only received amount of Rs.3,00,000/- and the remaining amount was withdrawn by Gurvinder Singh through cheques. The petitioner is ready to return the 50% of the amount received by him. There is also undue and unreasonable delay of 04 years in lodging of the FIR. Co-accused Paramjit Kaur has already been granted interim anticipatory bail vide order dated 23.02.2023 passed by this Court and co-accused Gurinder Singh has also been granted anticipatory bail vide order dated 27.04.2022 passed by the Coordinate Bench of this Court. The petitioner is already ready and willing to join the investigation. Therefore, the present petition may be allowed.

Notice of motion.

On the asking of this Court, Mr. Jaspal Singh Guru, Asstt. A.G., Punjab, who is present in the Court, accepts notice on behalf of the respondent-State. He opposes the present petition for grant of anticipatory bail to the petitioner on the ground that the petitioner along with his co-accused has cheated the complainant-bank for huge amount. For through investigation of the case custodial interrogation of the petitioner is required. Therefore, the present petition may be dismissed.

Having heard learned counsel for the parties, I am of the

view that the allegations against the petitioner are serious in nature. The petitioner had got transferred the property in his name in connivance with co-accused Manjit Singh, Pawari and Gurinder Singh, Development Officer and availed loan to the tune of Rs.13,17,600/-.

Moreover, the investigation is still going on and therefore, custodial interrogation of the petitioner is necessary for finding out the modus operandi of commission of the offence. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in ***State Vs. Anil Sharma : (1997) 7 SCC 187*** 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 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is 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 a responsible manner and that those entrusted with the

task of disinterring offences would not conduct themselves as offenders.”

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserves the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

13.04.2023

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No