

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(210)

CRM-M-23101-2022

Date of Decision: 27.02.2023

Umesh Kumar

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. R.D. Bawa, Advocate for the petitioner.

Mr. B.S. Virk, D.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.613 dated 11.10.2020 under sections 406, 420 IPC, registered at Police Station, Baldev Nagar, District Ambala.

As per factual matrix, FIR in question was registered on the statement made by Harish Kumar, Manager, Canara Bank, Baldev Nagar, Ambala, wherein it was alleged that the complainant bank released a loan of Rs.29,30,000/- in the name of the petitioner for the purchase of a truck, however, after release of the amount it was found that though the loan amount was released, however, petitioner Umesh Kumar did not purchase any truck for which the loan was sanctioned and thus the petitioner misappropriated the loan amount released to him. It was further alleged that petitioner Umesh Kumar had also availed loan from some another financial institution i.e. Fultron India Credit Co. Ltd. and this fact was concealed from the Bank as the Canara Bank had released the amount without any hypothecation of the vehicle for which the loan amount was released. The Bank was found to have been cheated and a request was made to take legal

action against the culprit.

On the basis of the FIR investigation commenced and petitioner was arrested on 18.2.2022. He approached the court of learned Addl. Sessions Judge, Ambala for grant of bail, however, after hearing the parties, the same was declined vide order dated 16.5.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that petitioner has been made a scapegoat by the bank officials and the PASCO Motors company in whose account the loan amount was released. It is submitted that the investigating agency has not investigated the role of the company officials in whose account the loan amount was transferred. Counsel submits that petitioner is a poor person and is behind bars for the last about one year. He submits that after completion of investigation challan has been presented and even the charges have been framed. He submits that petitioner is not even beneficiary in this case and as the material witnesses already stand examined, petitioner deserves to be granted the benefit of bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for petitioner. He submits that petitioner has misappropriated the amount of a nationalized bank which is apparent from the allegations made in the FIR and the same were substantiated after completion of investigation. He submits that petitioner had availed the loan for the purpose of purchasing a truck, however, the same was not purchased. It is submitted that petitioner also concealed the fact that he had already availed loan from another financial institution i.e. Fultron India Credit Co.

Ltd. and he is facing prosecution in another FIR No.106 dated 8.3.2019 under sections 420, 406, 467, 468, 471 IPC, registered at Police Station, Baldev Nagar, Ambala. It is submitted that out of total 9 prosecution witnesses 5 have already been examined.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 18.2.2022. The alleged loan was released by the bank concerned in the name of the petitioner, however, the loan amount was transferred in the account of the PASCO Motors Co. Though, the petitioner is facing prosecution in another FIR as well, however, he has been released on bail in that case. As per submission made by learned State counsel out of total 9 prosecution witnesses, 5 have already been examined by the learned Trial Court.

This court would refrain itself from commenting anything on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

27.02.2023

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