(223)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26873-2023
Date of Decision: 31.10.2023

PRADUMAN

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sharad Chaudhary, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.201 dated 02.12.2022 registered under Sections 420, 467, 468, 471 and 120-B IPC, 1860 at Police Station Satnali District Mahendergarh, Haryana.

2. The brief facts of the case are that on 29.08.2022, a complaint No. 1979-PG dated 29.08.2022 was received at Police Station, Satnali from Deepak Kumar son of Prem Singh, presently product Manager Shriram City Union Finance Ltd. which is reproduced as under: -

> *"To the SSP, Tehsil Narnaul, District Mahendergarh. Subject: Application Regarding conducting investigation against 1. Pradyumn, proprietor, S.S. Motors, son of Mahipal, resident of Village Bhandwa, Tehsil and District Charkhi Dadri, Mobile no. 9671566465 2. Rohit, Business Associate, son of Shri Sanjay resident of Village Kudal, Tehsil Loharu, District Bhiwani, Mobile no.8053800306 3. Ravinder Kumar, Field Investigation Officer, son of Shri*

Krishna Kumar resident of Village Karoli, Tehsil Narnaul District Mahendergarh, Mobile number 83960098960 4. Monu Sharma, Assistant Production Manager, son of Shri Dhaniram resident of Village Paluwas, Tehsil and District Bhiwani Mobile no. 7015875500 5. Credit team. (Yashpal son of Shri Rajpal, mobile no.6350675972, Avneesh Mobile no. 9996000397 Shree Ram City Unio Finance Ltd.) Sir, it is submitted that complainant Deepak son of Shri Prem Singh, presently working as Senior Product Manager, Shree Ram City Union Finance Ltd. That Shree Ram City Union is a Finance Ltd, which approved by RBI, which provides loan to public for two-wheelers, S.M.E, gold loan, personal loan etc as per their requirements. The registered of this company is 123, Angoppa Naickenn Street Chennai 600001 and General office in Haryana is at Rajender Nagar, D.C Colony, Meerut, Karnal, District Karnal. 2. That accused no1 is authorised dealer of SS Motors TVS Company. Accused no. 2-Business Associate Rohit and accused no. 3 Field Investigation Officer is Ravinder Kumar. 4. Monu Sharma, Assistant Product Manager, son of Shree Dhaniram resident of Village Paluwas Tehsil and District Bhiwani Mobile no 7015875500 5.Credit team, (Yashpal son of Shri Rajpal, mobile no. 6350675972, Aneesh Mobile no. 9996000397 Shri Ram City Union Finance Ltd) 3. That on 08.07.2022, Sunil Kumar, member of audit team of Complainant Company conducted audit, then the audit team came across the Loan agreements of 15 customers, except 2 agreements, the documents of loan of remaining 13 agreements which are attached are, fake and only demonstrative, for example proof of identity, proof of residence, dealer invoice, documents of licence Bill and KYC etc. Loan was given on the basis of these fake documents. Accused no. 1 was mastermind, accused no. 2 to 5 assisted accused no. 1 in committing this fraudulent act 4. That after going through *the report of audit team, further inquiry was conducted by Division Head, Deepak, then fake loans of total 122 two wheelers were found. When enquiry was conducted by going on spot, then no such persons, in whose names loans were sanctioned, were found nor proof of their residence was found. All the documents i.e. proof of identity, proof of residence, dealer invoice, documents of licence, bills and KYC etc by conspiracy were prepared to be fake and sent to company after tampering and cutting. 5. That no banking record of loan of above-mentioned 122 two wheelers has been found. The bank account record details of customers supplied by the accused persons to the complainant company are fake and were cancelled by the bank. The reason given by bank was 'no such accounts/invalid accounts' 6. That during the enquiry conducted by Deepak, Senior Product Manager, Shree Ram City Union Finance Ltd. loan agreements, KYC of above-mentioned two wheelers were found to be fake, all the agreements were sanctioned till last date of the month in pursuance of the conspiracy and invoices of these are almost same and are in serial number, accused no.1 paid EMIs of 96 loans from his own personal account before the due date, so that the company doesn't come to know about the fraud committed. All these EMIS should have been paid through the accounts of customers but the accused no.1 used to pay the EMIS from his account because there was no customer. All this proves that all the accused persons together have caused huge financial loss to the complainant company to the tune of Rs. 1 Crore by forgery and embezzlement by producing the fake documents as true. All the accused persons conspired and cheated the company by showing fake loans. 7. That company has been cheated of Rs. 1 Crore because of the fake loan agreements of above mentioned 122 two wheelers. That Rs. 87 lakhs as loan disbursement and Rs.*

9,28,000/- as trade advance and 3% incentive of loan amount which is Rs. 1,35,890/-, Accused No. 1 and the other accused persons have been assuring the company for last 1½ months that all the money fraudulently taken by them from the company will be returned to the company but till today no money has been returned. Therefore, it is requested that strict legal action be taken against the above mentioned accused persons for conspiring together by preparing false, fake, demonstrative documents and for committing fraud against the complainant company for breaching the terms and conditions of the stipulated agreement, causing financial loss and for tarnishing the image of the company and justice be delivered to the complainant company be compensated by the above mentioned accused persons. I shall be highly grateful. Note: All the relevant documents involved in the fraud are attached with the complaint. Applicant-Complainant DEEPAK son of Sh. Prem Singh, presently working as Senior Product Manager, Shree Ram City Union Finance Limited, Mobile No. 9813545400."

From the contents of application/complaint, offences punishable under sections 120-B, 420, 467, 468, 471 of IPC were made out the present case bearing FIR No. 201 dated 02.12.2022 u/s 120-B, 420, 467, 468, 471 of IPC was registered at Police Station, Satnali against the petitioner and the other co-accused.

3. The learned counsel for the petitioner contends that the allegations levelled in the FIR are baseless. In fact, it was the petitioner who had reported the fraud to the higher authorities stating that two of his company workers namely, Rohit and Monu Sharma who were overseeing the process of loan disbursement had committed the offences in question. An attempt had also been made by the complainant to settle the matter after the

petitioner had filed a complaint against Rohit and Monu Sharma. Even otherwise, no specific role had been attributed to the petitioner as per the Audit Report dated 08.07.2022 (Annexure P-4). He had nothing to do with the loan disbursement and his work only involved sale of two-wheelers. All his bank accounts had also been sealed by the Investigating Agency. As the petitioner was in custody since 07.02.2023, only 01 of the 38 prosecution witnesses had been examined so far and he was a first-time offender, he was entitled to the concession of bail moreso as the case was triable by the Court of a Magistrate.

4. A reply dated 5.10.2023 by way of an affidavit of Prabina P, IPS, Assistant Superintendent of Police, Mahendergarh, District Mahendergarh has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner is the main accused being the proprietor of M/s SS Motors which was the authorised dealer of TVS two-wheeler vehicles. He along with his co-accused Rohit had forged documents of 122 loan agreements and had received payments qua those from the finance company thereby duping the said company of a huge amount of money. Therefore, the nature of the allegations levelled against the petitioner did not entitle him to the grant of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 07.02.2023, only 01 of the 38 prosecution witnesses had been examined so far and that the case was triable by the Court of a Magistrate.

5. I have heard the learned counsel for the parties.

6. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

> "*Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.*"

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first-time offender, in custody since 07.02.2023 and only 01 of the 38 prosecution witnesses have been examined so far. Therefore, the trial of the present case is not likely to be concluded anytime soon. There are no serious apprehensions expressed by the State that the petitioner would abscond from justice, tamper with the evidence or influence witnesses if granted the concession of bail. Therefore, in this situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Praduman son of Mahipal is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petitions stand disposed of.

(JASJIT SINGH BEDI)
JUDGE

31.10.2023
JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No