

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

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CRM-M-30638-2023
Date of decision: 05.09.2023

Sunil Kumar
..Petitioner

Versus

State of Haryana
..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Kamal Gupta and Mr. J.S. Warring, Advocates
for the petitioner.

Mr. Jagdish Manchanda, Addl. AG, Haryana.

AMAN CHAUDHARY, J

1. On 06.07.2023, this Court had passed the following order:-

“The present petition has been filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in case FIR No.0041 dated 03.02.2023, registered under Sections 406, 420 and 120-B IPC (Sections 467, 468 and 471 IPC added later on) at Police Station Sector-14, District Panchkula.

Learned Senior counsel inter alia contends that the petitioner, who was working as Manager (Credits) in the complainant-Bank had, on the basis of certificate of purity and genuineness issued by the empanelled valuer of the Bank, recommended for grant of gold loan, which was subsequently sanctioned by the Branch Head, being the Complainant Authority. The bank at its own level has also conducted an enquiry and prima facie, it has been revealed therefrom that the procedure as envisaged was followed while sanctioning the loan to Deepak S/o Ayodhya Prasad, now the main accused. The petitioner is not involved in any other case. He is ready and willing to join investigation as and when required by the investigating agency.

Reply by way of affidavit dated 06.07.2023 has been filed in Court by Sh. Vinay Sharma, Branch Head-cum-Chief Manager of the complainant-Bank. The same

is taken on record. The relevant paras 2, 3 and 5 whereof, which read thus:-

“2. That as per the procedure of complainant bank, the loan was sanctioned to the accused Deepak son of Ayodhya Prasad on 11.12.2020. The disbursement of the loan amount was credited in the saving account of the accused Deepak son of Ayodhya Prasad. The petitioner upon completion of requisite procedure has recommended the gold loan which was sanctioned by then branch head Mr. Ashutosh Malhotra on 11.12.2020. That the complainant bank through its Vigilance Unit Chandigarh has conducted inquiry and no lapses were found on part of the officials pursuant to the present case. 3. That it is submitted that the bank has considered and relied on the certificate of purity and genuineness issued by the empaneled Valuer (co- accused) in the loan against gold matters. It is further submitted that the bank officials are not technical persons who can check the purity & genuineness and evaluate the quality, quantity, pureness and value the gold ornaments. That the Bank officials are totally relaying on the valuation of the goldsmith and as per the circular for gold loan within 15-20 minutes the whole process of gold loan must be completed.

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5. That the accused no. 1 Deepak son of Ayodhya Prasad and accused no. 2 Deepak Bhola in connivance with each other cheated the complainant-bank by depositing the fake gold with the complainant bank and obtained loan on the basis of said fake gold. The accused No.2 had issued certificate by showing the fake gold as genuine one having marketable value. That the co-accused Deepak Bhola with same modus operandi has done similar kind of fraud with in total three branches of the complainant bank. The complainant bank is a public undertaking and accused no. 1 Deepak son of Ayodhya Prasad and accused no. 2 Deepak Bhola misappropriated the public money.”

Meanwhile, the petitioner is directed to join the investigation on or before 13.07.2023. In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer, subject to

compliance of conditions as enshrined under Section 438(2) Cr.P.C.

However, it is clarified that if the petitioner does not join and cooperate with the Investigating Agency as required by the Arresting/Investigating Officer, this interim order shall be deemed to have been vacated.

Adjourned to 01.08.2023. ”

2. Learned counsel submits that in pursuance of the aforementioned order, the petitioner has not only joined investigation but also fully cooperated with the investigating agency. He further submits that in case the investigating agency requires the petitioner to appear, he shall make himself available without demur.
3. Learned State counsel affirms the factum of joining the investigation by the petitioner and cooperating with the investigating agency. He also submits that at this stage, the petitioner is not required for further custodial interrogation.
4. In view of the above and without expressing any opinion on the merits of the case, anticipatory bail petition filed by the petitioner is allowed and the order dated 06.07.2023 granting interim bail to him, is hereby made absolute, subject to compliance of conditions as specified under Section 438(2) Cr. P.C
5. However, it is made clear that if the petitioner fails to join and cooperate with the investigating agency as and when required, the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to him.

05.09.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No