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2023:PHHC:109934

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

**CRM-M No.41673 of 2023
Date of Decision: 23.08.2023**

Liyakat Ali and another

.....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sandeep Yadav, Advocate
for the petitioners.

Mr. Gaurav Bansal, D.A.G., Haryana.

PANKAJ JAIN, J. (ORAL)

Petitioners have prayed for grant of pre-arrest bail in FIR No.446 dated 20.08.2018 registered under Sections 420, 467, 468, 471, 120-B IPC (Section 201 IPC added later on) at Police Station Dharuhera, District Rewari.

2. As per the case of prosecution, the petitioners were owners only to the extent of 0.71 hectares of land whereas they have obtained loan after showing them to be the exclusive owner of 7.77 hectares of land.

3. Counsel for the petitioners submits that for a loan transaction of 2014 the FIR was got registered in the year 2018. Whole of the case of the prosecution is based upon documentary evidence and thus custodial interrogation of the petitioners would not be necessary.

4. I have counsel for the petitioners and gone through record of the case. It is not disputed that the petitioners applied for loan but they are not owners to the extent of 7.77 hectares of land. It is also not disputed that the petitioners failed to repay the loan. The parties are already in civil *lis* wherein the bank is running from pillar to post to recover the loan amount.

5. Keeping in view the aforesaid role assigned to petitioner, this Court does not find it to be a fit case for granting pre-arrest bail. As per settled law petitioner is required to make out a case for invoking jurisdiction under Section 438 Cr.P.C. In ***Gurbaksh Singh Sibbia vs. State of Punjab, 1980 (2) SCC 565***, Apex Court has held that :-

“..That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail....”
(emphasis supplied)

6. Likewise while reiterating the law laid down in Gurbaksh Singh Sibbia's case (supra), Apex Court in ***Sushila Aggarwal and others Vs. State (NCT of Delhi) and another, 2020 (5) SCC 1*** has held that :-

“(4) Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it.”

7. The nature and the seriousness of allegations levelled against the petitioner and his conduct are the relevant factors for the adjudication of the present petition.

8. In view of the aforesaid circumstances, this does not appear to be a fit case to grant discretionary relief of anticipatory bail to the petitioner. Consequently, the petition is dismissed.

9. Needless to say, nothing recorded hereinabove should be construed as expression on merits of the case.

10. Pending application(s), if any, shall also stand disposed of.

**(PANKAJ JAIN)
JUDGE**

August 23, 2023
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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No