

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

CRM-M-51925-2021

Date of Decision: 25.04.2023

Pankaj Sharma and another

..... Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Munish Puri, Advocate, for the petitioners.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

Mr. Gaurav Pathania, Advocate, for the complainant.

Mr. Harjot Singh Bedi, Advocate, for respondent No.2.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of anticipatory bail to the petitioners in a case FIR No.160 dated 06.10.2021, registered under Sections 120-B, 417, 420, 467, 468, 471 IPC, at Police Station Division No.2, Pathankot, District Pathankot.

Learned counsel for the petitioners has vehemently contended that the petitioner were falsely implicated at the behest of the complainant. He has submitted that the dispute among the parties is regarding the loan having been taken by the petitioners from the Hindu Co-op Bank, Pathankot-respondent No.2. He has submitted that the property as alleged in the FIR was hypothecated with the Bank and later on in place of this property, the petitioners gave another property to the Bank for hypothecation. He submits that the FIR has been got registered not by the Bank, but by the co-borrower, namely Sanjeev Kumar, who is also cousin of petitioner No.1. It has been submitted that basically it is a family dispute, which has been given a colour of criminal case in order to settle the family

dispute. He has submitted that the property was hypothecated with the Bank and in case of any violation of the terms and conditions of loan taken, it is the Bank who is competent to initiate the action for recovery of loan in accordance with law, however, it is the complainant who is the family member of the petitioners and one of the co-borrowers, who has lodged the present FIR. He submits that this Court had already granted interim protection to the petitioners with direction to join the investigation and in pursuance to the same, number of times both the petitioners have joined the investigation. He submits that even otherwise the case is totally of civil nature and all the outstanding issues can be decided in the proceedings by the competent Court. He has submitted that the petitioners have no criminal antecedents and hence, the interim order may kindly be made absolute.

Learned counsel for the complainant has vehemently opposed the submissions made by learned counsel for the petitioners and has submitted that though the complainant is co-borrower, but the petitioners have blatantly violated the terms and conditions of the loan given by the Bank by misusing the property hypothecated with the Bank. He submits that the complainant has filed various complaints before the Police for redressal of his grievance, but no action had been taken on the complaints.

Learned counsel for the Bank has also opposed the submissions made by learned counsel for the petitioners. He has submitted that outstanding loan is approximately one crore and the Bank is to initiate action against the petitioners under the SARFAESI Act, however, it has not been initiated so far.

Learned State counsel on instructions from ASI Balwinder Singh has submitted that though the petitioners have joined the

investigation number of times, but they did not cooperate regarding the property, which has been misused.

Heard.

After hearing learned counsel for the parties and perusing the record, it is apparent that the dispute between the parties is regarding the loan taken by the petitioners alongwith the complainant on the alleged property. However, remedies are available with the Bank under the law for recovery of loan and for violation of terms and conditions of the loan. The case in hand pertains to the prayer for anticipatory bail, in which the petitioners have already joined the investigation. This Court would refrain itself from commenting anything on merits of the case, however, in view of the overall facts and circumstances of the case, this Court is of the opinion that the interim order dated 21.07.2022 deserves to be made absolute.

In view of the above, the order dated 21.07.2022 is made absolute subject to compliance of conditions as envisaged under Section 438(2) Cr.P.C. and the petition stands allowed.

25.04.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No