IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-49737-2023 (O&M)
Date of Decision: 09.11.2023

(I)
Rohit and another

....Petitioner(s)

Versus

Union Territory, Chandigarh

.....Respondent(s)

CRM-M-51042-2023 (O&M)

(II)

Gurnam Singh

....Petitioner(s)

Versus

State (U.T. Chandigarh)

.....Respondent(s)

CRM-M-53834-2023 (O&M)

(III)

Arshpreet Singh

....Petitioner(s)

Versus

State of U.T. Chandigarh

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. L.S, Sidhu, Advocate,
for the petitioners in CRM-M-49737-2023.

Mr. Amit Sharma, Advocate,
for the petitioner in CRM-M-51042-2023.

Mr. Anish Verma, Advocate,
for the petitioner in CRM-M-53834-2023.

Mr. Abhinav Gupta, APP, U.T, Chandigarh.

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<u>JASGURPREET SINGH PURI, J.</u>

1. All the three petitions are taken up together for final disposal with the consent of learned counsel for the parties since all the three petitions arise out of the same FIR and the prayer in all the three cases is for the grant of anticipatory bail.

2. All the petitions have been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioners in FIR No. 102 dated 26.08.2023, under Sections 406, 420, 467, 468, 471 and 120-B IPC, registered at Police Station Mauli Jagran, District Chandigarh.

3. CRM-M-49737-2023 has been filed by two petitioners namely, Rohit and Rajesh Kumar, CRM-M-51042-2023 has been filed by one Gurnam Singh and CRM-M-53834-2023 has been filed by one Arshpreet Singh.

4. The present FIR came to be lodged on the basis of complaint made by Regional Manager, State Bank of India, Regional Business Office-I, Panchkula by alleging that one Abhinash Kumar had applied for a personal loan of Rs. 4,20,000/- under Xpress Credit Scheme from State Bank of India, Branch Raipur Kalan, Chandigarh vide loan application 13.01.2021. The aforesaid loan application was accompanied by various supporting documents i.e. KYC, ID Card issued by the employer department, salary slips and Form-16. On the basis of the aforesaid documents, loan facility was sanctioned and it was availed by the aforesaid Abhinash Kumar through his account maintained with the State Bank of India. Apart from the aforesaid loan sanctioned in the name of Abhinash Kumar, there were as

many as 97 other persons who also applied for similar personal loan facility under Xpress Credit Scheme from State Bank of India, Branch Raipur Kalan, Chandigarh and all of them submitted their supporting documents i.e. KYC, ID Card issued by their respective employer department, salary slips and Form-16. The loan facilities were sanctioned by the State Bank of India in this regard. However thereafter during the scrutiny and investigation of these 98 accounts and loan documents, it was found that the documents submitted for the purpose of sanction of loan facilities i.e. ID Cards, salary slips and Form-16 were found to be fake and fabricated. These accused persons have shown themselves to be employees of PGIMER, Panjab University, Chandigarh or Municipal Corporation, Chandigarh. A similar kind of *modus operandi* was adopted by all the 98 persons and a fraud has been committed in conspiracy and connivance with some unknown private and public persons. In this way, an amount of Rs. 2,76,72,923/- is outstanding against the aforesaid 98 loan account holders.

4. The petitioners Rohit, Rajesh Kumar and Gurnam Singh are stated to be the accused persons who have taken loan on the basis of fake and fabricated documents. The petitioner Arshpreet Singh is stated to be a mediator/agent who arranged the entire facilities to not only the aforesaid accused but to the total 98 beneficiaries by providing fake and fabricated documents of KYC, ID Cards, salary slips and Form-16 of the Income Tax Department.

5. Learned counsel appearing on behalf of the petitioners Rohit, Rajesh Kumar and Gurnam Singh submitted that so far as these three petitioners are concerned, they had applied for the loan in a *bona fide*

manner and they availed the loan facility since they were outsource employees of one BVG India Limited Company and all the documents supplied to the bank were not fabricated documents. They submitted that the action was *bona fide* in nature and even otherwise also, it is a financial dispute between the petitioners and the bank and the prayer in the present petitions is for grant of anticipatory bail which may be considered by this Court.

6. Learned counsel appearing on behalf of the petitioner Arshpreet Singh submitted that he has been falsely implicated in the present case since he is not a beneficiary of the loan nor he has applied for the loan and therefore, he may also be considered for the grant of anticipatory bail.

7. On the other hand, Mr. Abhinav Gupta, learned APP appearing on behalf of U.T, Chandigarh on instructions from SI Jai Bhagwan vehemently opposed the grant of anticipatory bail to the petitioners on the ground that it is a case where a large scale fraud and cheating has been committed by the petitioners. He submitted that the petitioners Rohit, Rajesh Kumar and Gurnam alongwith other accused persons who were also the beneficiaries of the loan applied for the loan alongwith various documents i.e. KYC, ID Card issued by the employer department, salary slips and Form-16 and on the basis of those documents which also have been attached with the present petition, the bank sanctioned the loan but thereafter it was found that the aforesaid documents were forged and fabricated documents. He submitted that during investigation they have confirmed from their respective employers i.e. PGI, Chandigarh, Panjab University and Municipal Corporation that such salary slips were never issued by them and even it

was so inquired from the Income Tax Department, although the same has not been obtained by way of written communication that no TDS was deducted by the Income Tax Department and, therefore, Form-16 attached with the loan documents were also fake and fabricated documents. He submitted that loanees were outsourced employees of one BVG India Limited Company and all the petitioners and the other similarly situated co-accused in connivance with the aforesaid Arshpreet Singh and one more co-accused namely, Rajeev have conspired with each other for committing a large scale fraud upon the bank by taking loan on the basis of fake and fabricated documents.

8. Mr. Gupta, further in order to substantiate his submissions submitted on instructions that the aforesaid Arshpreet Singh and one another mediator/agent took 10% commission from all the accused/loanee including the present three petitioners namely, Rohit, Rajesh Kumar and Gurnam Singh and it has also been found during investigation that some of the loanees had rather transferred the commission in the account of aforesaid Arshpreet Singh or Rajeev which goes into show that it is not a case that the mediators/agents were only responsible but it is a case where it was done with active connivance of the loanees as well, including the present petitioners. He further submitted that had it been a case that only the aforesaid mediators/agents had committed the fraud with the bank then the situation would have been different but here during investigation it has been found that the loanees had full knowledge and some of them had even transferred the commission in the account of the aforesaid agents to the extent of 10% which goes into show active connivance. To further

substantiate his arguments, he also submitted that during investigation it has also been found that even in the case of one another accused namely, Ashok (Non-petitioner), the stamp papers for the purpose of filing loan application were also obtained in the name of the aforesaid Arshpreet Singh, mediator/agent which makes it more clear that the entire fraud was committed in a well designed conspiracy of the aforesaid mediators and the other co-accused including the present petitioners. He submitted that considering the aforesaid facts and circumstances, the custodial interrogation of the petitioners is required to ascertain the *modus operandi* and to ascertain as to how many in other such type of cases the accused persons are involved. Furthermore, it is also necessary to ascertain that how the aforesaid documents which are vital documents i.e. salary slip, Form-16, PAN Card etc. have been fabricated with the seal of the respective offices. He also referred to a judgment of the Hon'ble Supreme Court in ***State represented by CBI Versus Anil Sharma, 1997 (7) SCC 187*** that for the purpose of elicitation of truth and qualitative investigation, the custodial interrogation of the petitioners is required.

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

10. The petitioners namely, Rohit, Rajesh Kumar and Gurnam Singh are stated to be the loanees whereas petitioner Arshpreet Singh is stated to be a mediator/agent. The allegations were pertaining to committing of a large scale fraud with the bank for the purpose of obtaining loan on the basis of fake and fabricated documents pertaining to 98 loanees including aforesaid three petitioners. It has been so submitted by the learned State counsel that during investigation it was found that the documents submitted which were in the

nature of salary slip, Form-16 and PAN Card etc. were found to be fake and fabricated. The allegations are indeed serious in nature. The learned State counsel has also submitted that active connivance of the loanees including the present three petitioners namely, Rohit, Rajesh Kumar and Gurnam Singh can be ascertained from the fact that 10% commission was given to the mediator Arshpreet Singh alongwith one more co-accused namely, Rajeev and even for one of the other loanee namely, Ashok, the petitioner Arshpreet Singh purchased the stamp papers in his own name. The argument raised by the learned State counsel that for the purpose of elicitation of truth and to ascertain the *modus operandi* adopted in the present large scale fraud and to ascertain as to how the vital documents were procured, the custodial interrogation of the petitioners is required carries weight and cannot be ignored.

11. This Court is of the view that it is not merely a case of financial dispute between the petitioners and the bank but it is a case where loans were allegedly availed on the basis of fake and fabricated documents and, therefore, considering the gravity and magnitude of the offence involved, this Court does not deem it fit and proper to grant anticipatory bail to the petitioners.

12. Consequently, all the three petitions are dismissed.

13. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petitions only.

09.11.2023 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

Whether speaking : Yes/No
Whether reportable : Yes/No