

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

CRM-M-54093-2022 (O&M)
Date of Decision: 31.01.2023

MUNI LAL

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Naveen Batra, Advocate
for the petitioner.

HARSH BUNGER, J.

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure, seeking anticipatory bail in case FIR No.151 dated 04.09.2019, registered under Sections 420, 465, 467, 468, 471 and 120-B of the Indian Penal Code, at Police Station City, Rupnagar, District Rupnagar (Annexure P-1).

Brief facts of the case are that the FIR in question, was registered on the basis of statement of one Manish Kumar Rastogi son of Sh. Rajnish Kumar Rastogi on behalf of M/s Shri Ram City Union Finance Limited, having its head office at 123, Angppa Nicken Street Chennai-600 001 and Branch Office S.C.O. 34, FF Beant Singh Nagar, Near Bela Chowk Ropar. It is stated in the complaint that the company is doing the business of providing business loan, secured and unsecured loan, Motor Cycle Loan, Gold Loan and Personal Loan etc. It is stated that Muni Lal (present petitioner) is doing the business of selling motor cycle in the name of M/s Lal Motor Agency at Village Chak, Nangal Road, Tehsil Sri Anandpur Sahib. It is further stated in the complaint that in the year 2014, Muni Lal

had applied in their office for getting business loan, whereupon, the complainant company had given a secured loan of Rs.15,00,000/- against property measuring 9 Marlas out of Khasra no.4 min – 5(2-4), 5 min/10 (1-12) situated in Village Chak, hadbast no.361, Tehsil Sri Anandpur Sahib, District Ropar as per Jamabandi 2012-13 by submitting original sale deed No.1601 dated 06.03.2014 and mortgaging the same with the complainant company and also signed an agreement with the company. It is also stated that an equitable mortgage was also executed and the daughter of the present petitioner had stood as a guarantee in the above said loan. It is next stated in the complaint that the complainant company had also obtained a report dated 16.10.2014 from Advocate Amita Khanna and report dated 18.10.2014 from Advocate H.S. Harmohinder Singh regarding the property under mortgage at the time of extending the loan to the accused persons and an affidavit of the present petitioner regarding non encumbrance certificate from the Tehsildar concerned as well as other documents were also obtained. It is stated that the monthly loan instalment was fixed at Rs.43,750/- and the last instalment was to be paid on 10.11.2019 and even the loan was got recorded in the jamabandi vide Rapat no.321 dated 12.05.2016. It is next stated that the accused persons did not pay the instalments and whenever the company employees visited them, they abused and threatened them. It is stated that the complainant company initiated proceedings under the Arbitration Act, wherein, the petitioner as well as his daughter did not appear before the Arbitrator and the learned Arbitrator had passed an award against them and even then, the amount has not been paid to the complainant company. It is stated that for carrying out the execution proceedings of the Arbitration Award, when the complainant company obtained the revenue documents regarding the property of the

petitioner herein then they learnt that the petitioner in connivance with others including the Halqa Patwari, got re-deemed the property illegally on 09.06.2016 and in this regard, an entry was made in the revenue record vide Rapat no.350. It is stated that the petitioner during execution of agreement of equitable mortgage with the complainant company had provided a forged/coloured copy of the sale deed and thereafter, when the complainant company obtained a legal search report from Advocate Sh. Sunil Kumar Pahuja, District Court Rupnagar, then it was revealed that the accused by forgery got redeemed the mortgage property and again mortgaged the same with SBI Bank Anandpur Sahib and obtained loan of Rs.39,00,000/-. It is next alleged in the complaint that son of the petitioner was working as a Trainee (Marketing) in the office of the complainant company at Ropar Office for the period 11.08.2015 till 05.01.2016 and during this period, he was having some letter heads and stamps of the complainant company, which were misused in conspiracy with the petitioner and his daughter by preparing a forged NOC (No Objection Certificate) in connivance with the Halqa Patwari and got cancelled the mortgage Rapat no.321 in the name of the complainant company on the basis of forged 'NOC'. It is further submitted that the accused persons gave false assurance to the complainant company that they intend to clear the loan and the petitioner and his daughter paid some amount so that the complainant company may not initiate any action and after much persuasion, the petitioner and his daughter deposited Rs.10,00,000/- by signing a settlement letter. However, subsequently the accused refused to pay the remaining amount.

On the basis of aforesaid complaint, the FIR in question was registered against the petitioner and others.

Apprehending his arrest in this case, the present petitioner applied for anticipatory bail before the Court of Additional Sessions Judge, Rupnagar; however, the same was rejected vide order dated 10.10.2022 (Annexure P-3). Accordingly, the petitioner has filed the instant petition before this Court seeking anticipatory bail.

Pursuant to the advance copy of petition having been sent, Mr. Vinay Kumar Gupta, Assistant Advocate General, Punjab, has appeared on behalf of respondent-State of Punjab in this case and opposed the present petition on the ground of seriousness of offence.

I have heard learned counsel for the parties and have perused the paper book with their able assistance.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation.

In the instant case, serious allegations have been levelled against the petitioner for forging documents in order to avail loan from the complainant company and subsequently, forging a 'No Objection Certificate', whereupon a rapat was got entered in the revenue records showing that the mortgage has been redeemed and thereafter, against the same land, another loan has been obtained from the SBI Bank Anandpur Sahib. No documents/evidence has been shown on behalf of the petitioner that the loan amount taken from the complainant company was returned and only thereafter, the 'No Objection Certificate' was issued by the complainant company.

During the course of hearing, learned counsel for the petitioner was asked to get necessary instructions from his client as to whether he was

ready and willing to make the payment to the complainant, especially when an Arbitral Award is already passed against him, however, learned counsel for the petitioner filed an application bearing **CRM-1784-2023** for placing on record 'Warrant of Attachment' dated 19.07.2022, which was issued by the Additional District and Sessions Judge, Rupnagar regarding decree passed in Arbitration Case No.220 of 2017 in favour of M/s Shriram City Union Finance Limited to contend that since the proceedings regarding recovery of the amount have already been initiated, no criminal case is made out against the petitioner.

It *prima facie* appears that the conduct of petitioner is not above board. Serious allegations of cheating/forgery have been made against him and in my considered view, custodial interrogation in this case is found to be necessary for complete and effective investigation.

The Court is required to do substantial justice and not to let the offenders go scot free. In case, custodial interrogation of the petitioner is denied to the investigating agency, that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely; which is not called for.

In ***State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268***, Hon'ble the Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful information.

Keeping in view the above facts and circumstances, the petitioner in the present case is not entitled for grant of anticipatory bail as no exceptional circumstance has been brought forth in that regard.

Accordingly, the present petition under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No.151 dated 04.09.2019, registered under Sections 420, 465, 467, 468, 471 and 120-B of the Indian Penal Code, at Police Station City, Rupnagar, District Rupnagar; is dismissed.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending application/s, if any, shall also stand disposed of.

January 31, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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