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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53620-2023 (O&M)

Date of Decision: 22.11.2023

Yagdat @ Yag Dutt

...Petitioner

vs.

State of Haryana and another

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Arun Singla, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Pardeep Solath, Advocate
for respondent No.2-complainant.

N.S.Shekhawat J. (Oral)**CRM-45785-2023**

Application is allowed as prayed for. Annexures P-4 to P-6 are taken on record.

CRM-M-53620-2023

1. The petitioner has filed the present petition under Section 438 Cr.P.C. with a prayer to grant anticipatory bail to him in case FIR No.89 dated 14.03.2020 under Sections 420, 467, 468, 471, 120-B of IPC, 1860, registered at Police Station Pinangwa, District Nuh, Haryana.

2. The FIR in the present case was registered on the basis of the complaint moved by General Manager, Gurugram Central Cooperative Bank Ltd., Gurugram. As per the complainant, a loan of Rs.7.80 lacs was disbursed to Yagdutt son of Krishan Dutt, accused on 27.01.1994. However, in March,

2020, the Bank officials came to know that the borrower had availed the loan by furnishing fake revenue record. With these broad allegations, the FIR in the present case was got registered by the complainant.

3. Learned counsel for the petitioner contends that the petitioner and his co-accused Subey Singh had constituted a partnership Firm and had taken the loan of Rs. 7.80 lacs from the Bank. He further contends that the petitioner had also approached the Bank Authorities for one time settlement of the loan amount. He further submits that a sum of Rs. 12 lacs has been deposited by the petitioner so far and is ready to settle the account with the Bank. He further contends that recovery proceedings have already been initiated against the present petitioner and the custody of the petitioner will not serve any meaningful purpose. He next contends that the entire case is based on documentary evidence and the custody of the petitioner may not be required at this stage.

4. On the other hand, status report by way of an affidavit of Deputy Superintendent of Police, Punhana has been filed on behalf of the respondent and the same is taken on record. Learned State counsel as well as learned counsel for respondent No.2 have vehemently opposed the prayer made by learned counsel for the petitioner. Learned counsel for respondent No.2 submits that an amount of more than Rs.1 crore is outstanding against the present petitioner and the said amount is yet to be recovered.

5. I have heard learned counsel for the parties and perused the record.

6. It is apparent from the submissions made by learned counsel for the parties that the entire case is based on the documentary evidence, which is already in possession of the police. Apart from that, it is also an admitted fact

that the recovery proceedings have already been initiated against the present petitioner. Moreover, the criminal prosecution can never be permitted to be used for recovery of loan amount, which may be outstanding against the present petitioner.

7. Without commenting any further on the merits of the case, the present petition is allowed and the Bank is free to pursue the above-said remedy before the Civil Court. The petitioner is granted concession of anticipatory bail, subject to the conditions as provided under Section 438(2) of the Cr.P.C. It will be open for the Investigating Officer to call the petitioner to join investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 438(2) of the Cr.P.C.

22.11.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No