IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210 (1) **CRM M-1920 of 2024**
Date of Decision: 04.03.2024

Rakesh Kumar Sharma ...Petitioner
Versus
State of Punjab ... Respondent

210(2)

CRM M-4302 of 2024
Date of Decision: 04.03.2024

Surinder Singh ...Petitioner
Versus
State of Punjab and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Suvir Sidhu, Advocate
for the petitioner in CRM M-1920 of 2024.

Mr. Gautam Dutt, Advocate
for the petitioner in CRM M-4302-2024.

Mr. Japjot Singh, Assistant A.G., Punjab.

Mr. Naginder Singh Vashist, Advocate
for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. This order shall dispose off two bail petitions, i.e., CRM M-1920 of 2024 titled as **" Rakesh Kumar Sharma Vs. State of Punjab"** and CRM M-4302 of 2024 titled as **"Surinder Singh Vs. State of Punjab and another",** whereby, both the petitioners have

prayed for grant of anticipatory bail in a case arising out of FIR No. 85 dated 16.11.2023 under Sections 409, 467, 468, 471 and 120-B of the Indian Penal Code, 1860, registered at Police Station Bhadson, District Patiala.

2. The FIR in the present cases was registered on the basis of complaint submitted by the District Manager of the Central Cooperative Bank Limited and the same has been reproduced as under:-

> *"At this time one letter number 61004/C-3 dated 15.11.2023 given by Rakesh Kumar son of Hans Raj resident of House No. 124 Civil Line Patiala District Manager, Patiala Central Cooperative Bank Limited, Head Office, Patiala, after investigation by the Deputy Superintendent of Police PBI Cybercrime and Economic Offences Patiala, for registration of FIR against Rakesh Kumar Sharma son of Sham Lal Sharma House No. 140 Himmat Nagar near Bir Niwas Nabha, Surinder Singh son of Major Singh resident of village Lubana Teku, Tehsil Nabha District Patiala, has been received in the police station from the office of Senior Superintendent of Police, Patiala through post, the contents of which are as follows:-*
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> *"Cooperative Bank, The Patiala Central Cooperative Bank Ltd. Head Office Patiala Ref. No 2364 Date 25.05.2023 Senior Superintendent of Police, Patiala.*
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> *Subject: Regarding registration of FIR against the bank employees at Branch Office Babarpur (Tehsil Nabha) for*

defrauding bank customers and the bank by tampering with bank records.

Sir, It is requested that Patiala Central Co-operative Bank Ltd., Patiala is doing banking business under license granted by Reserve Bank of India, at Patiala District. The concerned branch manager of this bank at branch office Babarpur namely Sh. Rakesh Kumar Sharma son of Sham Lal Sharma resident of house No. 140 Himmat Nagar near Bir Niwas Nabha and accountant Sh. Surinder Singh son of Sh. Major Singh resident of village Lubana Teku Tehsil Nabha district Patiala, who had tampered with the loan accounts of the customers of the bank and tampered with the deposit accounts and while playing fraud with them and with the bank, embezzled approximately an amount of Rs. 25 Lacs, the details of which are as follows:-

In the MT Loan branch office Babarpur, MT Loan of 18 members of MPCS Mallewal for an amount of Rs. 19,75,000/- was sanctioned for M.T. Year 2019-2020 and in the advancement of which, the following errors were found:-

(1) 15.02.2021 DEBIT A/c. No. 161200111100245 Credit A/c No. 161234038100196 DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed By 0454ASH (Rakesh Kumar Sharma) Amount involved 1,25,000/- Remarks Account number 16120011100245. The MT Loan has been advanced for an amount of Rs. 1,25,000/- through D.C-8 dated 15.02.2021 in the saving account number 161234038100196 through D.C-8 and thereafter, this amount was encahsed from the saving

account of the loanee account number 161234038100196 vide cheque No: 6867 vide D.C. No. 24 dated 15.02.2021. This cheque also does not bear the signatures of the loanee nor any payment slip is attached. When loanee was contacted regarding this, then loanee had also refused regarding any information qua the MT Loan of any kind. This fact was also got verified from the society and the Secretary had also issued certificate to the loanee regarding non-presence of any MT Loan over the loanee.

(2) 15.02.2021 DC 15 DEBIT A/c. No. 161200111100251 Credit A/c No. 161234038100170 DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed By 0454ASH (Rakesh Kumar Sharma) Amount Involved 1,00,000/- Account No. 161200111100251 MT Loan of Rs. 1,00,000/- has been advanced to the loanee saving account number 161234038100170 vide D.C.-15 on 15.12.2021 and thereafter the amount from this loanee's Savings Account No. 161234038100170 was encashed through Cheque No. 6873 vide DC No: 30 dated 15.02.2021. This Cheque number 6873, also did not bear any signatures of the loanee nor any stamp of payment was affixed and when loanee was contacted regarding this, then loanee had also refused regarding any information qua the MT Loan of any kind. This fact was also got verified from the society and the Secretary had also issued certificate to the loanee regarding non-presence of any MT Loan over the loanee.

(3) 15.02.2021 DC 1245 DEBIT A/c. No 161200111100258 Credit A/c No. 161234038100586 DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed By 0454ASH (Rakesh Kumar Sharma) Amount Involved 2,00,000/- Account No. 161200111100258, MT Loan of Rs. 2,00,000/- has been advanced to the loanee Kuldeep Singh son of Maan Singh into his saving account number 161234038200586 vide D.C.-1245 on 15.02.2021 without the society cheque and without getting any signatures over the Transfer Voucher from any member and, thereafter, the amount from this loanee's Savings Account No. 161234038200586 was encashed through Cheque No. 6953 vide DC No: 1612 dated 15.02.2021. This Cheque number 6953, also did not bear any signatures of the loanee nor any stamp of payment was affixed. Besides this, it is pertinent to mention here regarding the MT Loan account number 161200111100258 of Kuldeep Maan Singh that this loan was not passed in the MT limit loan and this account number was closed vide DC No. 581 dated 27.10.2021 after depositing Rs. 2,00,000/- without any interest.

(4) 15.02.2021 DC 1254 DEBIT A/c. No. 161200111100257 Credit A/c No. 161234038100792 DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed By 0454ASH (Rakesh Kumar Sharma) Amount Involved 2,00,000/- account number 161200111100257, MT Loan of Rs. 2,00,000/- was advanced to Narang Singh son of Sant Singh into the loanee's saving account number 161200111100257 vide D.C.1254 dated

15.02.2021 without society's Cheque and transfer voucher without getting it signed from member and, thereafter, the amount was withdrawn out of this Loanee's Savings Account No. 161234038100792 vide cheque No. 6954 dated 15.02.2021. This number 6954 did not bear any signatures of loanee nor any stamp of payment was affixed. Besides this, it is hereby stated regarding the MT Account number 161200111100257 of Narang Singh Sant Singh that this loan was got sanctioned within the loan limit of M.T. and it has been closed on 27.10.2021 vide DC 569 after depositing Rs. 2,00,000/- without any interest amount. RCC Limits:

SR.No 1 DATE 13-12-2018 DC NO. DC1758 DEBIT A/C NO. 161215131000101 CREDIT A/C NO. CASH PAYMENT DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed By 0454ASH (Rakesh Kumar Sharma) Amount involved Rs. 3,00,000/- Remarks R.C.C. Account Holder Nirmal Singh son of Darshan Singh Account No: 161215131000101 whose sanction limit is Rs. 3,00,000/-, to whom a certificate was issued by the Branch Manager regarding redemption of the numbers of the land, but it has been closed by the Account Branch in the FINACLE. From this RCC account (Account No. 161215131000101) on 13.12.2018, itself a payment of Rs.3,00,000/- has been withdrawn through DC 1758 and on searching, the vouchers dated 13-12-2018, could not be found in the branch and at this time the account balance of this account is approx. Rs. 3,21,142/- but the land has been redeemed.

(2) Dated 18.05.201 DC No: 346 DEBIT A/C NO. 161215131000116 CREDIT A/C NO. CASH PAYMENT DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed By 0454ASH (Rakesh Kumar Sharma) Amount involved 2,00,000/- Remarks RCC Account holder Raghuvir Singh son of Ujaggar Singh account number 161215131000116, whose sanction limit is 2,00,000/-, a certificate has been issued by the Branch manager on 17.05.2022 regarding redemption of the numbers of the land but the account was not closed. A payment of Rs. 2,00,000/- was withdrawn vide DC No: 346 on 18.05.2022 out of account number 161215131000116 of this RCC account holder Raghvir Singh son of Ujaggar Singh. The voucher of dated 18.05.2022 could not be found even after searching for the same in the branch. At this time the account balance of this account is approx Rs. 2,12,559/- but the land has been redeemed.

(3) 09.03.2020 DC No 1102 DEBIT A/C NO. 161215131000089 CREDIT A/C NO. CASH PAYMENT DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed By 0454ASH (Rakesh Kumar Sharma) Amount involved 3,90,000/-Remarks RCC Account holder Harbhajan Singh son of Sadhu Singh account number 161215131000089 whose sanction limit is Rs.4,00,000/-, was issued a certificate by the branch manager for redemption of the numbers of the land but the account was not closed. Out of the account number 161215131000089 of this RCC Account holder Harbhajan Singh son of Sadhu Singh, Rs.3,90,000/-had

been withdrawn wide D.C. 1102 on dated 09-03-2020. The voucher dated 09.03.2020 could not be found even after searching for the same in the branch. At this time the account balance of this account is approx Rs. 4,31,727/- but the land has been redeemed.

(4) 20.12.2018 DC No 4 DEBIT A/C NO. 161215131000104 CREDIT A/C NO. CASH PAYMENT DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed By 0454ASH (Rakesh Kumar Sharma) Amount involved 2,90,000/- Remarks RCC Account Holder Chamkaur Singh son of Darshan Singh account number 161215131000104 whose sanctioned limit is Rs.3,00,000/-, to whom the certificate regarding redemption of the numbers of the land was issued by the branch manager on 13-12-2018 but the account was not closed. From account number 161215131000104 belongs to this RCC account holder namely Chamkaur Singh son of Darshan Singh payment of Rs.2,90,000/- has been withdrawn through DC:04 on 20.12.2018. On searching, vouchers dated 20-12-2018 could not be found in the branch, at this time the balance of this account is Rs.3,20,843/- but the land has been redeemed. Loan against F.D.

(1) 31.03.2022 DC NO. DC1058 DEBIT A/C NO. 161218001100261 CREDIT NO. A/C No 161234001100271 DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed by 0454ASH (Rakesh Kumar Sharma) Amount involved 400000/- Remarks dated 31-03-2022 a loan account of Loan against FD Account number 161218001100261 was opened in the

name of Mandeep Kaur and transferred Rs.4,00,000/- to Mandeep Kaur's Saving Account No. 161234001100271 and cash was withdrawn. During investigation it has come to notice that on date 31-03-2022, Rs.16,000/- in RCC Limit Account No. 16121513100015, Rs.1,47,100/- in account No. 161215131000089, Rs.90,000/- in Account No. 161215131000113, Rs. 35,000/- in account No. 161215131100032, Rs. 64,000/- in Account number 161215131100024, were deposited as interest amount. The Redemption Certificate was issued in these accounts on 161215131000089. This raises the suspicion that the interest of all the above RCC cases has been paid by the branch manager after making loan against FD so that it remains out during the NPA and goes unnoticed. It is also worth mentioning here that Mandeep Kaur's Loan Against FD account 161218001100261 was closed on 20.06.2022 without charging any interest.

(2) 12.05.2022 DC NO. DC3934 DEBIT A/C NO. 161218001100265 CREDIT NO. A/C No 1612340011000146 DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed by 0454ASH (Rakesh Kumar Sharma) Amount involved 5,00,000/- Remarks-On 18-08-2021, an amount of Rs. 5,00,000/- was advanced to Sukhwinder Kaur wife of Bhag Singh against Loan Against F.D. Account number 161218001100238, which was closed on 20-06-2022 with an interest of Rs.11,044/. Before closing this account (161218001100238) a new loan against FD account 161218001100265 was opened on 12-05-2022

from the same FD in the name of Sukhwinder Kaur wife of Sh. Bhag Singh, but the interest table was kept Zero in the FINACLE of the loan against FD account no 161218001100265. Loanee Sukhwinder Kaur had complained to the bank (copy attached) that she is illiterate and this loan had been sanctioned fraudulently by the branch manager in the name of renewing the FD by taking my thumb impressions over many places. From the perusal of the voucher dated 18-08-2021, it is found that on the same day Branch Manager Rakesh Kumar Sharma has deposited cash amount of Rs. 1,00,000/- in his account No. 161234001100270 and Rs. 4,00,000/- Cash in account No. 161234005100004 and cash receipt stamp of the branch is affixed on these vouchers but vide loose cheque No. 7642 through which a payment of Rs.5,00,000/- was made to Sukhwinder Kaur who had appended her thumb impression, which does not bear any payment stamp, which makes the loan against F.D. as suspicious/doubtful which was given to Sukhwinder Kaur wife of Sh. Bhag Singh.

(3) 14-02-2023 DC152 DC NO. DC152 DEBIT A/C NO. 161218001100296 CREDIT NO. A/C No 161234001000172 DC Entered and Passed By 0406SUR (Surinder Singh) DC Passed by 0454ASH (Rakesh Kumar Sharma) Amount involved 2,70,000/- Remarks Sukhdev Singh son of Harnek Singh Customer ID No: 000126831 FD Account No 161236039000038 regarding which a receipt number 005471 had already been issued which was issued after depositing the same entirely, to Sukhdev Singh son of Harnek Singh vide F.D.

Receipt no: 06303 for account number 161236039000038 but after misleading the customer a loan against FD was issued for an amount of Rs. 2,70,000/- on the old FD receipt number 00541 and on the FD Receipt number 06303 which was given to the customer, it bears only signatures of the Branch manager and on the back side of the FD, after putting renewal stamp for twice, no signatures were appended. Due to the availability of the FD Receipt no: 06303 with the customer, the customer did not come to know about this loan. Regarding the non-presence of the entries of recovery voucher in the bank (1) dated 08.02.2022 DC NO; DEBIT A/C NO: -- CREDIT NO: A/C NO - DC Entered and Passed BY-DC Passed by Amount involved: 77,780/- Remarks: During the Inquiry it came into the notice that on 08.02.2022, in the MT Loan 161200111100253 old account number 266, Ranjit Singh, Rs. 7,77,80/- were deposited, the bank receipt of which along with the stamp had been issued to the loanee Ranjit Singh, the copy whereof is attached herewith, but neither this recovery voucher is available in the bank nor is there any entry regarding the same in FINACLE. (1) dated 25.07.2022 DC NO; DEBIT A/C NO: -- CREDIT NO: A/C NO - DC Entered and Passed BY-DC Passed by Amount involved: Rs. 1,47,800/- Remarks: During the Inquiry it came into the notice that on 28.07.2022, in the MT Loan 161200111100252 old account number 433, Harmeet Singh, Rs. 1,47,800/- were deposited, the bank receipt of which along with the stamp had been issued to the loanee Harmeet Singh, the *copy whereof is attached herewith, but neither this recovery voucher is available in the bank nor is there any entry regarding the same in FINACLE. It is therefore, requested to your good self that after getting the inquiry conducted of the branch, on finding the embezzlement of the above said amounts, these both above said employees i.e. Sh. Rakesh Kumar Sharma Branch Manager vide office letter No: 1906-15 dated 19.05.2023 and vide letter no. 1916-26 dated 19.05.2023 Sh. Surinder Singh accountant have been suspended from their services of the bank. A committee has been formed by the bank to conduct the remaining inquiry, which is pending and there is a possibility that other such amounts of embezzlement may also come into the notice. The bank is looking for their movable/immovable assets so that they can be attached under the Punjab Cooperative Society Act 1961 to protect the interests of the bank and the people. The bank has suspicion that these employees may also flee abroad and apart from this, the management has come to know through people that they are putting pressure by threatening to commit suicide and trying to obstruct the process. Therefore, we request you to file a case under relevant sections of the IPC for tampering with the bank's records and for defrauding the customers and the bank and for threatening the management and obstructing the government work. It is also requested to your good self that Sh. Vikas Bhalla, Senior Manager, Mobile No. 7837150005, has been appointed as the Nodal Officer by the bank for taking any kind of* *record/information from the bank, so the concerned officer of your department may contact anytime with the nodal officer.*

With thanks, Yours faithfully, sd/- District Manager CCB Patiala, Dated 25.05.2023.

3. Learned counsel for the petitioner Rakesh Kumar Sharma in CRM M-1920 of 2024 contended that the petitioner is not the beneficiary of any amount, as alleged by the complainant. In fact, Surinder Singh, co-accused had employed another person Jaswinder Singh on his behalf for day to day affairs of the bank and he had misused the ID of Surinder Singh. Learned counsel further contended that that the official ID of the petitioner, as alleged in the FIR, was not only used by the co-accused Surinder Singh Singh and his companion Jaswinder Singh, but was also used by the head office to conduct day to day activities in the present case. The petitioner had appeared before the Investigating Officer in compliance of a notice under Section 41-A of the Cr.P.C. Still further, the FIR has been got registered by the complainant after a delay of about 02 years and 09 months. Apart from that, the petitioner is ready to join the investigation and his custody will not serve any meaningful purpose.

4. On the other hand, learned counsel appearing on behalf of Surinder Singh petitioner in CRM M-4302 of 2024 submitted that in the preliminary inquiry conducted by the bank, only Rakesh Kumar Sharma, co-accused had confessed his crime and there was no

evidence to prove the culpability of the petitioner. He further contends that the petitioner had approached this Court by filing a CWP No. 16291 of 2023 for getting the documents, which have been alleged to be tampered. Still further, no voucher or document had ever been signed by the petitioner and the ingredients of Sections 467 and 468 of IPC were not made out against the petitioner. He further contended that the petitioner was handicapped person and was 100% disabled. Thus, it was impossible for him to operate the computer and the co-accused Rakesh Kumar Sharma had kept him in this position so as to make him scapegoat eventually. Even, his one arm is fully amputated and even suffers the disability in his other arm. Learned counsel further contended that the petitioner was ready to join the investigation in the present case.

5. On the other hand, learned State counsel assisted by the learned counsel for the complainant/bank vehemently opposed the submissions made by the learned counsel for the petitioners. While opposing the bail petition of Rakesh Kumar Sharma, i.e., CRM M-1920 of 2024, the learned State counsel has referred to para numbers 2 to 6 of the reply and the same have been reproduced below:-

> *"2. In whole of the petition the petitioner has projected himself as a victim of omissions and commission committed by his subordinate and has tried his level best*

to shift his own burden also upon the co-accused namely Surinder Singh, Cashier. Whereas, as per Registered Bye-Law No. 44 of the bank, the Branch Manager of the concerned branch is the custodian of the Branch and he has to maintain proper record of the accounts, cash book, ledger showing the actual record of each share holder, depositor, creditor and borrower account holder. Copy of the extract of the registered bye-Laws No. 44 depicting the Duties of the Branch Manager are attached as Annexure C-1. So, for every act of omission and commission the Branch Manager is responsible. Moreover, there are number of entries of transfer of funds of from the accounts of the customers into his own account or his wife account and the same has been done by two login IDs out of which of which one pertains to the petitioner. The login IDs are exclusive and secret which an employee can't share with anyone for the safe operation of accounts. In this case, computer login ID 0455ASH, pertains to the petitioner and 0406SUR, pertains to his co- accused Cashier. If any entry in any account holder is done then the same was done when both the exclusive login IDs were used.

3. The FIR has been lodged on the complaint filed by the District Manager of the Patiala Central Cooperative Bank Ltd., Patiala (herein after referred to as the complainant bank). The petitioner is an employee of the complainant bank and is working on the post of Assistant Manager and at the time of lodging of FIR No. 85 dated 16.11.2023 the petitioner was deputed as Branch Manager at Babarpur Branch of the complainant bank.

It is worth to mention here that since 2018, the petitioner and the co-accused namely Surinder Singh remained deputed at Babarpur Branch of the complainant bank as Branch Manager and Cashier respectively.

4. The District Manager along with Nodal Officer of the Branch, made a surprise visit at Babarpur Branch and checked the cash in hand. On checking, it was found that cash in hand of the branch was Rs. 9,03,917/- and another entry of Rs. 3,000/- was also found in the cash book, totaling Rs. 9,06,917/-. But when physical checking of cash was done then only an amount of Rs. 6,26,917/- was found in the branch. Therefore a huge shortage of Rs. 2,80,000/- was detected and the petitioner is the custodian of the cash.

5. Thereafter, a team was constituted to check records of the bank and to the utter surprise it was found that there are discrepancies in Loan Accounts and other records such as Loan Against Fixed Deposit (LAFD), Fixed Deposits (But No such Account was Opened), Revolving Cash Credit Farmers Limit (RCC Limit), Medium Term Loan to Farmers (MT Loan) Recovery Vouchers (MT Loan). Thereafter, an initial complainant for the embezzlement of approximately Rs. 25,00,000/- was made to the Police.

6. Thereafter the team was directed to thoroughly check each and every account which bears the signatures and where IDs of the petitioner and co-accused were used. So, they reconcile the record such as Bank Ledger, renewal of FDs, Enchased FDs, Advanced Loans, Cash Book, Accounts etc. So, it was detected by the team of the

> *complainant bank that embezzlement is not just limited to Rs. 25,00,000/- but the same is running over One Crore rupees. Therefore, three separate reports were submitted to the Police after thorough investigation and reconciliation of the records of the bank".*

6. While opposing the bail petition of Surinder Singh, petitioner in CRM M-4302-2024, learned State counsel assisted by the learned counsel for the complainant/bank vehemently opposed the submissions made by the learned counsel for the petitioners and referred to para numbers 3 to 7 of the reply and the same have been reproduced below:-

> *"3. Each branch different confidential Login IDs are issued to each employee such as Branch Manager, Senior Manager, Cashier etc. The login IDs are exclusive and secret which an employee can't share with anyone for the safe operation of accounts. Because usage of these Login IDs shows that with whose ID the Debit and Credit Transaction has been done in each account. In this case, computer login ID 400SUR pertains to the petitioner and ID 0455ASH pertains to his co-accused Branch Manager namely Rakesh Kumar Sharma. So, if any discrepancy has been done and found during the investigation then the same was done when both the exclusive login IDs were used for transaction.*
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> *4. The answer to the query is this that the amounts mentioned in the F.I.R. are the amounts which have been found to be embezaled by the petitioner and his co-*

accused by using their special secret Login IDs. Whereas, prior to lodging of the present FIR No. 85, the Bank has initiated arbitration proceedings under Section 55/56 of the Punjab Cooperative Societies Act, 1961 for the recovery of those amounts embezzled from the accounts of innocent and illiterate account holders or loanees. In total 50 arbitration have been filed and in all cases, the amounts includes Principal Amount, Interest and Cost of the arbitration of each account from which the amounts have been embezzled by the petitioner and his co-accused. Consolidated chart of all the cases is attached as Annexure R-2/11 is worth to mention here that in some cases, the Principal amount is mentioned as Rs. 0/-. In those cases the petitioner and his co accused embezzled amount and later on closed the account without paying any interest on it. So, those cases have been filed only with regard to interest part. As, the amount embezzled by the petitioner and his co-accused is "PUBLIC MONEY and therefore, they are bound to pay the principal amount including interest from the date on which the amounts were illegally withdrawn, embezzled and misappropriated by the petitioner and his co-accused. Therefore there is difference in the amounts mentioned in the FIR and arbitration cases.

5. The petitioner is taking up a plea that he is 100% disabled and he cannot even operate computer and cannot write anything other than putting up his signatures. Whereas, it is worth to submit that the petitioner was appointed on the post of Peon on compassionate ground. Later on the petitioner made a *request to the Management to promote him to the post of Clerk. So, from 27.03.2015, after promotion to the post of Clerk, he continuously worked on the post of Clerk-cum-Cashier at different-different branches. Moreover, prior to his promotion to the post of Clerk, all the branches of the bank became computerized and are functioning on special software through Special confidential Login IDs issued to each employee dealing in transaction. Only few works such as Filling of Forms, Vouchers and Scroll Book (wherein cash entry is entered) is done manually. As, the all the Bank uses special software for the safe and secure operation of accounts therefore no rocket science is required to operate a computer. He simply used to operate the accounts by using his special login ID No. 406SUR and then by pressing special keys on keyboard and usage of mouse to do the transactions. It is further submitted here that being a Cashier he used to receive the cash and issued counter foils to the customers and embezzled the amount by not depositing the same against the said account. Copy of the Cash Scroll prepared by the petitioner is attached as Annexure A-2/2 to show this Hon'ble Court that the petitioner used to prepare the Scroll Book and used to append his signatures on it at the end of it.*

6. Since his posting at Babarpur Branch, the petitioner never complained about any difficulty faced by him or he was being subjected to anything by the Branch Manager (the other petitioner). Even during this period, the petitioner used fill Employees Self Appraisal Form

> *attached with his ACRs, wherein he used to narrate the work done by him while performing the duties of Clerk-Cum-Cashier. Copies of two such Self Appraisal Forms are attached as Annexure R-2/3 and Annexure R- 2/4.*
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> *7 The misdeeds of the petitioner and his co-accused comes out of the Pandora Box when the District Manager (complainant) along with Nodal Officer of the Branch, made a surprise visit at Babarpur Branch and checked the cash in hand. On checking, it was found that in the Cash Book (Maintained by the Petitioner) cash in hand of the branch was Rs. 9,03,917/- and another entry of Rs. 3,000/- was also found in the cash book, totaling Rs. 9,06,917/-. But when physical checking of cash was done then only an amount of Rs. 6,26,917/- was found in the branch. Thus a huge shortage of Rs. 2,80,000/- was detected and being the Cashier, the petitioner is the custodian of the cash. When inquiry was made about the shortage of the Cash in hand the petitioner was not able to give any explanation and pleaded mercy that he will make the good loss in a day. The petitioner is making mockery of law as he has not mentioned about this shortage in whole of the petition".*

7. Learned State counsel assisted by the learned counsel for the complainant submitted that both the petitioners had cheated the more than 49 customers of the bank and the amounts running into crores have been embezzled by them. Not only that, the record of the bank had been forged and some of the record was still in the custody

of both the petitioners. Consequently, keeping in view the gravity of the offence as well as to recover the documents from both the petitioners, the custody of the petitioners was required.

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

9. After hearing the learned counsel for the parties, this Court is of the *prima-facie* view that both the petitioners had embezzled the amounts running into crores of rupees and had committed a fraud not only with the bank but also with more than 49 customers of the bank and had misappropriated huge amounts. Even, for the commission of the fraud, the special ID's of both the petitioners had been used in the present case. In fact, such log in ID's are exclusive and secret, which an employee could not have shared with anyone for the safe operation of the accounts. Apart from that, even Surinder Singh, petitioner used to operate the account by using his special log in ID and by pressing special keys on the keyboard and use of mouse to do the transactions. He was cashier of the bank and used to receive the cash and issued counterfoils to the customers, however, the amount was never deposited in their accounts. Both the petitioners had acted against the interest of the bank, which had shaken the faith and confidence of the depositors of the bank. Even, when the account holders come to know about the fraud committed by them, they called up both the petitioners and recorded their

conversation, in which, the petitioners were pleading that they will pay back each and every penny to them at the earliest. Apart from that, it has also been found during the investigation that number of vouchers and bank records were missing in the Babarpur Branch of the complainant bank and the same are yet to be recovered from both the petitioners.

10. Thus, keeping in view the gravity of the offence and also the fact that the bank record is yet to be recovered from both the petitioners, the present petitions are liable to be dismissed by this Court.

11. Dismissed.

04.03.2024 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

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