



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-32392-2024 in/and
CRM-M No.12594 of 2024
Date of Decision: 28.08.2024

Amit Kumar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Kanhiya Soni, Advocate,
for the applicant-petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

CRM-32392-2024

The application is allowed, as prayed for and Annexures A-1
and A-2 are taken on record.

Main Case

1. The present petition has been filed by the petitioner seeking
regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
246	03.11.2021	Sadar Tohana, District Fatehabad	420, 467, 468, 471, 506 read with 34 of IPC

2. Brief facts of the case relevant for the purpose of disposal of
the present petition are that the aforementioned FIR was registered on the
basis of a written complaint filed by the complainant Ram Parshad

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alleging therein that the accused Satish Kumar who was working as an agent at LT Finance Company, Sirsa had induced him to apply for loan for purchase of tractor from his agency at lesser prices. On that pretext, he had procured his signatures on some documents. He had taken his photos, copy of Aadhar Card, Voter Card, Ration Card, PAN Card etc. and also four blank signed cheques. Thereafter, he did not get secured any loan for him for quite sometime due to which, the complainant had told him to withdraw the application for grant of loan. On his asking, the accused Satish Kumar got an application for cancellation/withdrawal of loan, duly signed from him but did not return the documents handed over to him and kept on putting of the matter on one pretext or the other.

3. As per the further allegations, in July 2018, the complainant was shocked to know that a tractor was got financed in his name from LT Finance Company, Sirsa and amount of Rs.30,000/- was shown to be payable by him as instalment. On being informed so by an agent of the abovesaid Finance Company, he disclosed that he had never obtained any loan. Thereafter, the accused Satish Kumar along with the present petitioner Amit Kumar and some other employees of LT Finance Company came to his house and extended threats to repay the loan by proclaiming that it was he who had applied for and availed laon for purchasing a tractor and had purchased the same. They also extended threat to get his properties attached and even to kill him. The complainant made inquiries and came to know that the accused Satish Kumar in connivance with others had secured loan in his

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name and by misutilizing the documents, the said tractor had been sold to petitioner-Amit Kumar. He, therefore, prayed for taking action in the matter.

4. After registration of FIR, investigation proceedings were initiated. During investigation, offences under Sections 467, 468 and 471 of IPC were deleted and offence under Section 120-B of IPC was added. The present petitioner was arrested on 28.10.2023. He suffered disclosure statement that the accused Satish Kumar with whom he was having friendly relations had disclosed to him that the complainant Ram Parshad had got prepared from him a file for availing loan for purchase of tractor from LT Finance Company and has also submitted his documents but subsequently refused to avail the same and also told him that by using said file and documents submitted by the complainant, they could get a tractor taken out of the tractor agency and sell it further. He further disclosed that he had agreed to do so and had joined co-accused Dilbag Singh with him and then they had brought tractor from tractor agency in the name of the complainant and it was sold by him and Dilbag Singh to the co-accused Kuldeep for a sum of Rs.3 lakhs which had been divided amongst himself, Dilbag Singh and co-accused Satish Kumar.

5. As alleged, the petitioner suffered another disclosure statement on 29.10.2023 to the effect that he along with the complainant had prepared a file for fetching loan for purchase of tractor from LT Finance Company through co-accused Satish Kumar and after getting the same delivered, the complainant, himself and Dilbag Singh had sold the same to the co-accused

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Kuldeep for a sum of Rs.3.5 lakhs and had divided the money amongst himself, complainant and co-accused Dilbag Singh. He disclosed that an amount of Rs.1.06 lakhs was deposited by him in the bank account of the complainant Ram Parshad and another amount of Rs.30,000/- was given by him in cash to the complainant. The co-accused Kuldeep has also joined the investigation proceedings on being extended benefit of anticipatory bail and has suffered disclosure statement. The petitioner had moved application for grant of regular bail which had been dismissed by the Court of learned Sessions Judge, Fatehabad vide order dated 09.02.2024.

6. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 28.10.2023. The entire prosecution version is based upon documentary evidence. The subject offences are triable by Magistrate. The investigation has still been completed. Trial has commenced but is likely to take time. He has a permanent abode. There are no chances of his absconding. No recovery is to be effected from him. His custodial interrogation is not required. The co-accused Kuldeep Singh has been extended benefit of anticipatory bail. His further detention would not serve any useful purpose. Therefore, it is urged that he deserves to be extended benefit of bail.

7. Status report has been filed by the respondent-State. It has been submitted therein and learned State counsel has argued that there are specific allegations against the petitioner that he in connivance with the co-accused had misused the documents/papers which were got signed from the

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complainant on the pretext of providing loan for a purchase of tractor in his name and by doing so, the petitioner and the co-accused had got the tractor issued in the name of the complainant and then got it delivered to themselves and by further selling the same, they had secured wrongful gain for themselves and had caused wrongful loss to the complainant who was not even aware that any such loan was obtained in his name. It is submitted that the allegations against the petitioner are severe in nature. The trial might be expedited. The petitioner has criminal antecedents since as many as five criminal cases two of which are pertaining to the commission of offences of cheating and criminal breach of trust are pending against the petitioner. He had even been declared absconder in one case and a case under Section 174A has also been registered against him. It is submitted that there are chances of petitioner's absconding if extended benefit of bail and, therefore, it is urged that he does not deserve to be released on bail.

8. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

9. The petitioner is alleged to have entered into a criminal conspiracy with the co-accused and in pursuance of that criminal conspiracy, loan was got availed from LT Finance Company, Sirsa in the name of the complainant, a tractor was purchased in the name of the complainant itself but was delivered to the petitioner and the other co-accused and they are alleged to have further sold the same. The petitioner is in custody since 28.10.2023. The subject offences are triable by Magistrate. The trial is likely

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to take time. Though the petitioner has criminal antecedents but it is revealed that he has been acquitted in three of the five cases as registered against him and is on bail in other two cases. The trial is likely to take time. It is well settled proposition of law that bail is the rule and jail is an exception. Keeping in view the nature of the subject offences, the part attributed to the petitioner, the period spent by him in custody and the attendant facts and circumstances of the case but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petitioner deserves to be extended benefit of bail at this stage. Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal and two surety bonds to be furnished by two sureties to the satisfaction of learned trial Magistrate and further subject to the condition that he will not leave the country during the pendency of the case and further subject to the condition that he shall be appearing before SHO Police Station Tohana on 1st Saturday of every month during trial and if he fails to do so, the learned trial Magistrate would be at liberty to cancel the benefit of bail so granted to him.

10. A copy of this order be sent to SHO PS Sadar Tohana as well as to the trial Magistrate.

28.08.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No