IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

101 (I) CRM-M-15546-2024
Date of Decision : July 15, 2024

BALVINDER SINGH -PETITIONER

V/S

STATE OF HARYANA -RESPONDENT

(II) CRM-M-25758-2024

ANIL KUMAR -PETITIONER

V/S

STATE OF HARYANA -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Dhruv Gupta, Advocate
for the petitioner (in CRM-M-15546-2024).

Mr. Pragyat Bhardwaj, Advocate
for the petitioner (in CRM-M-25758-2024).

Mr. Rajesh Gaur, Addl. A.G., Haryana.

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KULDEEP TIWARI, J. (ORAL)

1. Since both these petitions arise out of a common FIR, besides them yearning common relief(s), therefore, they are amenable for being decided through a common verdict.

2. To be precise, in both these petitions, the petitioners seek the concession of anticipatory bail, in case FIR No.274 dated 24.05.2023, under Sections 406 and 420 of the IPC (Sections 467, 468, 471 and 120-B of the IPC added subsequently), registered at P.S. Naraingarh, District Ambala.

3. The principal argument of the learned counsels representing the

petitioners is that, in fact, it is the complainant, who even himself became subsequently transposed as an accused in the present FIR, is the mastermind behind the entire scam, vis-a-vis, forgery and manipulation of documents for obtention of bank loan. Moreover, the petitioners have shared only minimal amounts of the loan, as became dishonestly obtained by the complainant, on the strength of forged documents.

<u>FACTUAL MATRIX</u>

4. The genesis of the present FIR is embodied in a complaint dated 17.04.2023 made by one Ram Sharan (hereinafter referred to as the 'complainant'). The gist of his complaint, as narrated in paragraph No.2 of the order dated 04.05.2024, whereby, the learned Additional Sessions Judge concerned has declined to grant anticipatory bail to the petitioner (in CRM-M-25758-2024), is reproduced hereinafter:-

> *"...complainant Ram Sharan had moved a complaint to the police alleging therein that Anil Kumar son of Puran Chand had shown him a house for sale and had told that the same was on the name of his mother Roshni Devi. Complainant had purchased the house from them vide a registered sale deed no.29/1 dated 06.04.2017 on assurance of Anil Kumar that he will get issue loan from bank. Anil Kumar had got sanctioned a loan from DCB bank and got issued the loan amount through draft No.752012 dated 03.04.2017 in the name of Roshni Devi. When he tried to take possession of the house, he was not given possession thereof. Later, he came to know that sale deed was executed showing the property as house whereas the said property was only a vacant land. As such, accused have committed fraud upon him and did not return his money to him despite demand."*

5. After registration of the present FIR, investigation commenced and the investigating officer collected the following documents as

evidence:- (a) Photocopy of agreement to sell dated 28.03.2017 executed by Roshni Devi in favour of the complainant for the land/plot bearing House No.448, Ward No.12, Tehsil Naraingarh, District Ambala; (b) Photocopy of Sale Deed No.20 dated 06.04.2017, entered in Book No.384, Page 2; (c) Photocopy of assessment for the year 2015-2016.

6. Moreover, statement of the complainant was also recorded, wherein, he clearly specified the role of the petitioners. The relevant extract of his statement, as narrated in the reply dated 20.05.2024 (in CRM-M-15546-2024) is reproduced hereunder:-

> *"I am a resident of the above address and I have filed case number 274 dated 24.05.2023 under sections 406, 420 IPC. It has been registered in Naraingarh police station. That I have purchased a plot 00-05 Marla, Mauja Panjlasa, Hd. No. 96 Tehsil Naraingarh District Ambala. Balvinder Singh S/o Shri Sukhchain Singh Resident No. 714 Hussaini Road Ward No. 1 Naraingarh District-Ambala. Sanjay Bakshi, property dealer, through Anil Kumar's mother Roshni, wife of Shri Purna Chand, resident of Kurali. Balwinder Singh and Sanjay Bakshi altogether built a house on a plot in nearby Shiv Colony. Showed the house and everyone told that by putting the photo of this house on that vacant plot, we will get you a loan of about 20 lakhs from DCB Bank because we are very knowledgeable in DCB Bank and we have got loans done to many people in the past also and to get the loan, Balvindra Singh took the photocopy of my documents, Aadhar card, PAN card or my photo and said that you do not need to do anything, we will get your loan and Balvinder Singh took the loan from me as a commission. I will have to pay Rs 2 lakh because he told me that the loan on a vacant plot will be only Rs 4 or 5 lakh but this much loan can be passed only after meeting the bank employees and they also have to pay the money which Balvinder Singh or Sanjay Bakshi had given. My loan draft number 752012 dated 03.04.2017 on that house was approved for Rs.17,20,000/- from DCB Bank, Yamunanagar and after deducting*

the bank charging, the loan amount was received in the form of DD of Rs.16,63,315/-. Given in the name of Roshni Devi wife Phool Singh resident of village Kurali and all this money had been cashed by Roshni Devi's son Anil Kumar because Anil Kumar had told me that all the loan money had come and I had made all the money. Have got it withdrawn and when I said give my share of the money to me, Anil Kumar said that will not give any money because all the three of us Balvinder Singh, Sanjay Bakshi have divided it among ourselves and said to me, that you can do whatever you can. After a few days, Sanjay Bakshi gave me about 2 lakh rupees and said that he is giving me this money which we have together taken as loan on the house from the bank and I also paid installments to D.C.B. loan account for around 02 years and which is around Rs 5 lakh. But I had not received the loan money from the bank, that is why I had stopped paying the bank installments and whatever documents related to the loan I have given to the bank, Balvinder Singh has made available to the bank and Balvinder Singh has given information about those documents. Only Balvinder Singh or Anil Kumar can tell about the bank employee with whom he got the loan and all of them also have the loan amount from the bank."

7. Thereafter, on 11.03.2024, the investigating officer moved an application to the Secretary, Municipal Committee, Naraingarh, thereby seeking authentication of the House Tax Assessment Receipt document. However, the official concerned reported that there is no record found in the book(s) of the Municipal Committee related to document dated 23.03.2017, in respect of the property/land bearing H.No.448, Ward No.12. Consequently, Sections 467, 468, 471 of the IPC were also added in the present FIR.

<u>SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PETITIONERS</u>

8. The learned counsel for the petitioner (in CRM-M-15546-2024)

submits that neither the name of the petitioner reflects in the FIR, nor any role whatsoever has been assigned therein to him.

9. The learned counsel for the petitioner (in CRM-M-25758-2024) submits that although the petitioner has been nominated as an accused in the FIR, however, the mastermind is the complainant himself, inasmuch as, it was him who forged documents to obtain loan from the bank and then in order to escape his liability, he concocted a false story.

REASONS FOR DISMISSING THESE PETITIONS

10. When these petitions came up for initial hearings, the petitioners were granted the relief of interim anticipatory bail vide separate orders and they were directed to join the investigation. However, the learned State counsel, on instructions from the official concerned, informed that although the petitioner (in CRM-M-15546-2024) joined the investigation but he did not cooperate with the investigating officer, rather remained evasive. Upon this, vide order dated 30.04.2024, the petitioner concerned was granted another opportunity to join the investigation and to cooperate with the investigating officer. However, the respondent-State filed reply and opposed the grant of anticipatory bail to the petitioner(s), on the ground that, they have actively participated with the complainant to forge documents and even not cooperated with the investigating officer, rather remained evasive.

11. What has surfaced during investigation is that, in fact, the complainant purchased the plot in question from petitioner- Anil Kumar, whereas, the original owner thereof was latter's mother Roshni Devi. Thereafter, the petitioner- Anil Kumar got sanctioned a loan in his mother's

name by showing the vacant plot as a constructed house and withdrew the loan amount.

12. Insofar as petitioner- Balvinder Singh is concerned, a questionnaire was served to him during interrogation, to which he specifically answered that he had only provided the complainant's PAN Card, Aadhar Card, Perfume, Balance Sheet, Company Neelkanth and bank statement. He also admitted that he got 3% share of the loan amount for committing the present offence. Not only this, upon a specific query being posed to him with regard to preparation of fake assessment, he made the hereinafter extracted response:-

> *"11. Was the fake assessment prepared by you from Municipal Corporation Naraingarh and the signature was also done by you and did you put the stamp of your Secretary Municipal Corporation Naraingarh?*
>
> *Ans. The fake assessment was handwritten by me myself and the signature above the stamp is also mine. Fake stamp on fake assessment is already there."*

13. In view of the detailed investigation (supra), *prima facie* this Court is of the view that the petitioners have actively participated with the complainant to obtain loan on the basis of forged documents, thus cheating the bank concerned. Not only this, despite the petitioners being afforded adequate opportunity by this Court to return the loan amount to the bank, they are not ready and willing to do so.

14. For all the reasons (supra), coupled with the conduct of the petitioners and the roles assigned to them, this Court does not deem it a fit and deserving case to grant the extraordinary relief of anticipatory bail. Consequently, both these petitions are **dismissed.**

15. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petitions only.

16. A photocopy of this order be placed on file of connected case.

(KULDEEP TIWARI)
JUDGE

July 15, 2024
devinder

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No