(208)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39689-2024
Date of Decision: 14.10.2024

JULLU

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sudhir Rana, Advocate
for the petitioner.

Mr. A.S. Chaudhary, Addl. A.G., Haryana.

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JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 483 BNSS, 2023 is for the grant of regular bail in case bearing FIR No.110 dated 28.03.2018 registered under Sections 420, 467, 468, 471, 201, 120-B and 409 IPC, 1860 (Sections 409 and 201 IPC added later on) at Police Station Dharuhera, District Rewari.

2. The present FIR came to be registered at the instance of State Bank of India, Dharuhera, Sub-Tehsil Dharuhera, District Rewari and the same reads as under:-

> *"Court of Hon'ble Chief Judicial Magistrate Rewari. State Bank of India, Dharuhera Sub-Tehsil Dharuhera District Rewari through Manager and Chief Officer Shri Saroj Kumar Versus 1. Jullu son of Bane Khan 2. Umar Khan son of Bane Khan Residents of village Ubarka Tehsil Tijara District Alwar (Raj)... Accused. Complaint under section 420/467/468/471/120B-IPC Police*

Station Dharuhera Sir, the complainant makes the following request that- 1. That the complainant bank is State Bank of India, a corporation, constituted under the State Bank of India Act-1955, whose head office is situated at Nariman Point, Madam Cama Road, Mumbai and one of the regional offices is situated in Sector-17B, Chandigarh and one of its various branches is at Dharuhera, Sub-Tehsil Dharuhera, District Rewari (Haryana) and Shri Saroj Kumar is the Branch Manager and Chief Officer of State Bank of India, Dharuhera, who has full legal right and authority to file the present complaint under the State Bank of India Act. 2. It is that the above-mentioned accused had presented certified Fard Jamabandi and Khasra Girdawari Khevat/Khatauni No. 36/12 whose total area is 5.22 hectares, village Ubarka Tehsil Tijara District Alwar (Raj) Samvat 2064-2067 issued on 14.09.2010 by the signature of the Patwari, in order to obtain a loan from the applicant bank. Along with this, the regional Tehsildar's certificate of the above-mentioned land was issued by the Tehsildar Tijara and Halka Patwari on 14.09.2010, in which also the above- mentioned accused/mortgagor were sent to the bank's lawyer for getting the land's validation report done. Thereafter, these people presented the verification report of their land on 14.10.2010 to the applicant bank. 3. It is that the above-mentioned accused had given a loan application dated 22.09.2010 for obtaining Kisan Credit Card loan of Rs. 1,70,000/- and tractor loan of Rs. 4,40,000/- from the Bank, on which the loan was sanctioned by the applicant Bank to the accused and the accused had mortgaged his above-mentioned land of which his share was 2.61 hectare i.e. 52 Kanal 4 Marla, in favour of the Bank through mortgage deed Wasika No.2010004323 dated 18.10.2010 registered in Tehsil Tijara (Raj.) and the accused had got the entered mutation of loan in the name of the Bank vide mutation No. 496 from the Halka Patwari on this mortgage deed dated 21.10.2010 and the actual mortgage deed was presented to the applicant Bank, situated at Dharuhera and the accused had *executed Hypothecation Agreement dated 25.10.2010 in favour of the Bank and the accused had put their thumb impression/signature on all the loan documents considering all the documents as correct in the applicant's branch at Dharuhera. 4. That the accused has not deposited any amount in his loan account till date, then the applicant bank obtained the certified copy of the revenue record of the land mortgaged by the accused and upon inspection found that in the Fard Jamabandi given to the bank at the time of mortgage by the accused, Khasra Girdawari and the certificate issued by the Tehsildar Samvat 2064-2067 which was issued on 14.09.2010, the area of Khewat/Khatauni No. 36/42 Khasra No. 116 was shown as 1.19 hectare. In this Khewat, only the share of the accused and another co-sharer was shown, which was in the Fard Jamabandi, by forging the Khasra Girdawari and the certificate issued by the Tehsildar, the area was increased and false documents were prepared and presented to the bank. Whereas as per the actual revenue records, the area of Khewat/Khatauni No. 36/42 Khasra No. 116 is recorded as 0.19 hectare and there are many co-sharer in this Khewat and the accused has a share of 1/3 in it and the other parts of Khasra No. 307, 308, 309, 310, 313, 316 were sold by the accused through Mutation No. 433 dated 06.02.2009 whereas this Mutation No. 433 was not shown in the Jamabandi given by the accused, which the accused have shown as 1.19 hectare more in the above mentioned Fard Jamabandi, Khasra Girdawari and certificate issued by the Tehsildar by committing fraud, which the accused have done by conspiring among themselves and criminally. The applicant has obtained loan by hatching a conspiracy to take more loan from the bank by cheating the bank, by doing forgery and significant alteration and by making fake Fard Jamandai, Khasra Girdawari and certificate issued by the Tehsildar, with the intention of taking undue advantage of the complainant and causing loss to the bank. 5. That the complainant bank had given a complaint letter dated 27.03.2017 regarding the above fraud but*

> *till date no action has been taken against the accused by the police on this request, due to which the present complaint is being filed. 6. That the accused person have cheated the complainant bank by preparing fake and false documents as original documents to take loan from the complainant, which falls under Section 420/467/468/471/120B of IPC. 7. That the complainant was given the above documents at SBI Dharuhera and the loan has been sanctioned to the above accused by SBI Dharuhera branch. Therefore, this complaint letter comes under the jurisdiction of the court and the court has full authority to hear the complaint and pass orders. Therefore, it is requested to the court that the above complaint letter should be sent to the Dharuhera police station under section 156 (3) Cr.P.C. and a case should be registered against the above accused under section 420/467/ 468/471/ 120B-IPC and the accused should be punished for their act. It will be your kindness. Place Rewari SD Sharoj Kumar Complainant State Bank of India, Dharuhera Sub-Tehsil Dharuhera District Rewari Bajaria Branch Manager and Chief Officer Shri Saroj Kumar."*

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The allegations of forging documents to show ownership of more land and thereby obtaining more loan amount is baseless. There was a delay of about 08 years in the registration of the FIR. The co-accused of the petitioner have been granted the concession of bail. As he was a first-time offender, in custody since 03.05.2024 but none of the 13 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail.

4. A status report dated 10.10.2024 by way of an affidavit of Dr. Ravinder, HPS, Deputy Superintendent of Police (HQ), Rewari has been filed

on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that the petitioner was the main accused being the beneficiary of the loan. The revenue documents were fabricated to show that the petitioner was owner of more land than he was with a view to obtain a greater loan. The allegations as levelled did not entitle the petitioner to the grant of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 03.05.2024 and that none of the 13 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

> "*Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.*"

7. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a first-time offender, in custody since 03.05.2024 but none of the 13 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. There are no serious apprehensions expressed by the State that the petitioner would abscond from justice, tamper with the evidence or

influence witnesses if granted the concession of bail. Therefore, in this situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Jullu son of Bane Khan is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

14.10.2024

JITESH

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