IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24524-2025

Date of decision: 11.07.2025

Harbhag Singh

....Petitioner

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Anil Mehta, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

Mr. Tarun Dhingra, Advocate for the respondent No.2.

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SUMEET GOEL, J.

1. Present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter to be referred as 'the BNSS') for grant of anticipatory bail to the petitioner in case bearing FIR No.250 dated 17.10.2024, registered for the offences punishable under Sections 406 and 420 of IPC at Police Station City, Thanesar, Kurukshetra and for setting aside of order dated 28.04.2025 passed by the Additional District and Sessions Judge, Kurukshetra whereby the bail application filed by the petitioner has been dismissed.

2. The gravamen of the FIR in question pertains to defrauding the Sarv Haryana Gramin Bank by obtaining the three loans to the tune of Rs.65 lacs by the petitioner alongwith his wife (co-accused) while mortgaging two properties; one measuring 27 kanals 01 marla situated in village Balahi, Tehsil, Thanesar, District Kurukshetra and the other land measuring 11 kanals situated in village Dabkheri, District Kurukshetra. However, without first redeeming a parcel of land measuring 11 kanals situated in village

Dabkheri, the petitioner alongwith co-accused proceeded to sell the same for a substantial amount manifesting a clear intend to defraud the complainant-bank which necessitated the complainant-bank to lodged the instant FIR. On the basis of the aforesaid complaint, instant FIR has been registered against the petitioner alongwith his wife (co-accused) and investigation ensued.

3. Learned counsel for the petitioner has iterated that the petitioner is innocent and has been falsely implicated in the present case. Learned counsel asserts that the allegations levelled against the petitioner in the impugned FIR are entirely baseless and devoid of any credible or cogent material. Furthermore, the petitioner has no connection whatsoever with the alleged offence. It has been further iterated that the Police has tried to give a criminal colour to what is essentially a civil dispute and thereby subjecting the petitioner to unwarranted harassment. It has been further iterated that the land measuring 11 kanals situated in village Dabkheri, District Kurukshetra has never been mortgaged by the petitioner to the complainant bank for the purpose of securing the loan or overdraft limit and hence no lien whatsoever was ever marked by the revenue authorities on the aforesaid land. It has been further submitted by the learned counsel that the petitioner has never stopped the repayment/installment of the loan which is secured against an asset having market value which is thrice the outstanding loan amount. A bare perusal of the complaint as well as the FIR makes it abundantly clear that the complainant bank itself has acknowledge that there was no existing entry in the revenue records evidencing such a mortgage. According to learned counsel, the complainant bank moved an application seeking entry in the revenue records only at a belated stage, long after the alleged transaction. Learned counsel has further submitted that the petitioner

and his wife have consistently and diligently discharged their financial obligations towards the repayment of the loan and OD limit. Moreover, the petitioner has never acted with any criminal intent nor committed any offence as alleged. The entire prosecution narrative is nothing but an abuse of process, aimed at coercing the petitioner under the guise of criminal proceedings. Lastly, it has been further argued that there is no need for custodial interrogation of the petitioner, as nothing incriminating remains to be recovered from him. Moreover, there is no likelihood of the petitioner absconding from the process of justice in case he is enlarged on pre-arrest bail.

4. Conversely, learned State counsel *has* opposed the grant of anticipatory bail to the petitioner by arguing that the offence committed by the petitioner is serious in nature. He submits that the petitioner has availed the loan from the complainant bank with an intention to defraud it. He has further contended that in light of the seriousness of the allegations, the custodial interrogation of the petitioner is imperative for a fair and thorough investigation. According to him, the custodial interrogation is essential to unravel the broader conspiracy and recover the defrauded loan amount. He has further emphasized that releasing the petitioner on bail at this crucial stage may hamper the ongoing investigation and potentially lead to tampering with evidence or influencing of witnesses. Accordingly, a prayer has been made for the dismissal of the instant petition in order to facilitate effective investigation into the alleged offence.

5. Learned counsel for the respondent No.2-bank has raised submission in tandem with the submission made by the learned State counsel.

6. I have heard the learned counsel for the rival parties and have gone through the available record of the case.

7. As per the case put forth in the FIR in question, indubitably, serious allegations have been levelled against the petitioner. The FIR *ibid* was lodged on the basis of a complaint filed by the complainant - bank alleging that the petitioner and his wife (co-accused) had obtained the loan to the tune of Rs.65.00 lacs with an intention to defraud it while mortgaging the two properties i.e. one measuring 27 kanals 01 marla situated in village Balahi, Tehsil, Thanesar, District Kurukshetra and the other land measuring 11 kanals situated in village Dabkheri, District Kurukshetra. However, without first redeeming the parcel of 11 kanals of land situated in village Dabkheri, the petitioner, in connivance with the co-accused, proceeded to effect its sale for a consideration amount of Rs.1.00 crore. *Prima facie,* it emerges from the record that the petitioner, in connivance with co-accused, without securing prior clearance of the encumbrance, sold the land kept as security, thereby reflecting a calculated and deliberate intent to cause wrongful loss to the complainant - bank and to unjustly enrich himself. The aforesaid transaction, in the absence of redemption of the mortgaged asset, raises serious question about the bona fide of the petitioner and points to an attempt to circumvent the rights of the complainant - bank. This fact, coupled with other circumstances detailed in the investigation, points towards the active complicity of the petitioner in the alleged offence and to defraud the complainant bank. The stand of the State before this Court is that the custodial interrogation of the petitioner is indispensable for the purpose of effectively recovering the siphoned loan amount. The nature and gravity of the offence, involving defrauding the bank, necessitate a thorough

investigation, which, at this stage, cannot be conducted without the petitioner being in custody. Moreover, no exceptional or compelling circumstance has been demonstrated which would warrant the grant of anticipatory bail in such a serious offence. The petitioner, in a calculated and fraudulent manner, proceeded to alienate immovable property that had been mortgaged in favour of the complainant-bank as security for the financial facilities availed. Instead of getting the entry in the revenue records, the petitioner executed a sale transaction in respect of the said land for a valuable consideration without informing the complainant - bank. Such conduct demonstrates a deliberate intention to deceive and defraud the complainant – bank and gross breach of trust as also suppression of material facts. The unauthorized sale of mortgaged property, while the debt remains outstanding reflects not merely a civil default but a criminal act aimed at frustrating the lawful recovery process.

7.1. The allegations central to the instant case revolve around the egregious act of defrauding a public sector bank, an offense that directly compromise substantial public funds. It is a fundamental tenet of jurisprudence that petitions for anticipatory bail, particularly those arising from economic offences involving public monies, must be subjected to the rigorous and exacting scrutiny. Economic offences by their very nature, occupy a singular and exceptionally serious position within the criminal landscape. They are distinguished by their inherent capacity to inflict widespread detriment upon the general populace and to undermine the stability and integrity of the national economy. The judicial imprimatur of anticipatory bail in such circumstances would not only create a formidable impediment to the thorough and unimpeded progression of the ongoing investigation but would also regrettably constitute a direct affront to the well-established and prudential principles of law that consistently advocate for a highly circumspect and restrictive approach to the grant of pre-arrest liberty in cases of this gravity and societal impact. Such a grant could be perceived as undermining public confidence in the financial system and the administration of justice. It is befitting to mention here that while adjudicating the bail pleas, particularly in cases concerning to defraud the bank by obtaining false loan, necessitates a meticulous evaluation of several pivotal factors. Paramount among these is the inherent gravity and seriousness of the offence. Given the inherent nature and profound gravity of offences, this Court finds itself disinclined to grant the relief of anticipatory bail as prayed for. A profitable reference in this regard is being made to the dicta passed by the Hon'ble Supreme Court in ***Y. S. Jagan Mohan Reddy Vs. Central Bureau of Investigation: 2013 (7) SCC 439;*** relevant whereof reads thus:

> *"15) Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.*
> *16) While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations."*

At this stage, there is no material on record to hold that *prima facie* case is not made out against the petitioner. The material which has come on record and preliminary investigation, appear to be established a reasonable basis for the accusations. Thus, it is not appropriate to grant anticipatory bail to the petitioner, as it would necessarily cause impediment in effective investigation.

8. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of anticipatory bail in the factual matrix of the case in hand. Moreover, custodial interrogation of the petitioner is necessary for an effective investigation & to unravel the truth. The petition is, thus, devoid of merits and is hereby dismissed.

9. Nothing said hereinabove shall be deemed to be an expression of opinion upon merits of the case/investigation.

10. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

July 11, 2025
Ajay

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