

Before Aman Chaudhary, J.

SHER SINGH – *Petitioner*

versus

STATE OF HARYANA AND ANOTHER – *Respondent*

CRM-M No. 37884 of 2022

August 26, 2022

Code of Criminal Procedure, 19 73—Section 438—Indian Penal Code, 1860—Ss. 406, 420, 468, 471—petitioner seeks anticipatory bail—Allegation of forging revenue record of Government to show ownership of co-accused Satpal in place of the complainant, obtain loan from bank—Held it is a case of creating charge of a bank on a property of which neither petitioner nor co-accused Satpal were the owners—Court is not inclined to grant anticipatory bail—Petition dismissed.

Held, that the allegations in the case are of forging the revenue record of the Government to show the ownership of co-accused Satpal in place of that of the complainant, for the purpose of obtaining loan from the bank, for which the petitioner assisted co-accused Satpal.

(Para 7)

Further held, that petitioner witnessed for creating a charge of the bank on the said property, which is purportedly owned by the complainant. Therefore, this being not a case of mere identification of executant before authorities for registration of deed etc. but is a case of creating of charge of a bank on a property, of which neither co-accused Satpal nor the petitioner were the owners. The fraud being played upon the complainant seems rather evident whereby his land can even be sold by the bank, in order to recover the loan amount upon non-repayment by co-accused Satpal.

(Para 7)

Further held, that this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, the present petition stands dismissed.

(Para 8)

Pankaj Bali, Advocate, *for the petitioner.*

Gaurav Bansal, A.A.G., Haryana.

Abhimanyu Singh, Advocate, for respondent No.2 complainant

AMAN CHAUDHARY, J.

(1) The present petition under Section 438 Cr.P.C. has been filed for grant of anticipatory bail to the petitioner in case FIR No.698 dated 5.8.2022, registered under Sections 406, 420, 468, 471 IPC at Police Station Assandh, District Karnal.

(2) Learned counsel for the petitioner submits that though the petitioner has been named in the FIR but he is not the beneficiary of the alleged loan raised from the Bank by co-accused Satpal. He further submits that he being a co-villager had merely identified the said co-accused. He further submits that custodial interrogation of the petitioner is not required as nothing has to be recovered from him, Satpal being the main accused.

(3) Per contra, learned State counsel opposes the prayer of the petitioner for grant of anticipatory bail. He has produced an application creating a charge on the property of the complainant for the purpose of obtaining the loan, the basis of which is the forged revenue record of the land belonging to the complainant. The same is taken on record as Mark 'A'. He further submits that the investigating agency is trying to discern a connection between co-accused Satpal and the petitioner by relying on the document mentioned above.

(4) Learned counsel for the complainant submits that by forging the revenue record, the petitioner as also co-accused Satpal and Parmod had hatched a conspiracy to mortgage the land owned by the complainant. He further submits that in case the said loan is not repaid by way of the agreement between co-accused Satpal and the bank, the land of the complainant shall be sold. As a matter of fact, he submits that the petitioner is the main conspirator alongwith other co-accused.

(5) Learned counsel for the State as also learned counsel for the complainant further submit that in the order declining the anticipatory bail, learned Additional Sessions Judge had rightly concluded that the petitioner had facilitated obtaining of loan from the bank on the basis of fake and forged documents. They both further submit that as a matter of fact he had been an integral part of the entire transaction alongwith co-accused Satpal for obtaining loan on the basis of the fake and forged documents inasmuch as he is a co-villager and was aware of the land not belonging to co-accused Satpal. Knowing fully well the aforesaid fact, he had verified the application submitted to the Bank for obtaining loan whereby the charge in favour of the bank had been created as per declaration duly signed by the mortgagor's, by so doing the revenue

record regarding the land of the complainant was forged by them and shown to be in ownership of co-accused Satpal, consequently, charge was created on the said land, which as a matter of fact was owned by the complainant.

(6) Learned counsel for the petitioner in rebuttal submits that in the order of learned Additional Sessions Judge, it was merely mentioned that the petitioner had only facilitated co-accused Satpal for obtaining the loan from the bank, which according to the learned counsel for the petitioner means that he had only identified the co-accused Satpal.

(7) Heard the learned counsel for the parties. The allegations in the case are of forging the revenue record of the Government to show the ownership of co-accused Satpal in place of that of the complainant, for the purpose of obtaining loan from the bank, for which the petitioner assisted co-accused Satpal, as is evident from the document Mark 'A' being an application for recording of charge/mutation in the revenue record on the agriculture land on basis of declaration under Section 4(1). This is actually a form of the Oriental Bank of Commerce, in which the petitioner witnessed for creating a charge of the bank on the said property, which is purportedly owned by the complainant. Therefore, this being not a case of mere identification of executant before authorities for registration of deed etc. but is a case of creating of charge of a bank on a property, of which neither co-accused Satpal nor the petitioner were the owners. The fraud being played upon the complainant seems rather evident whereby his land can even be sold by the bank, in order to recover the loan amount upon non-repayment by co-accused Satpal.

(8) In view of the above observations, and the submissions advanced by the learned counsel for State as well as the complainant, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, the present petition stands dismissed.

(9) However, the investigating agency, may continue their investigation, uninfluenced by the observations made hereinabove, which have been made only for the purpose of deciding the present petition and be not construed, in any manner, as an expression on merits of the case.