
(2020) 08 P&H CK 0077

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 18122-2020 (O&M)

Nishan Lal Ghanaut

APPELLANT

Vs

State Of Haryana

RESPONDENT

Date of Decision : 31-08-2020

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 420

Citation : (2020) 08 P&H CK 0077

Hon'ble Judges : Manjari Nehru Kaul, J

Bench : Single Bench

Advocate : Dinesh Rawat, Apoorv Garg

Final Decision : Dismissed

Judgement

Manjari Nehru Kaul, J

CRM-21471-2020

Application is allowed and the reply by way of an affidavit of the petitioner is taken on record.

Main case

Prayer in this petition is for grant of anticipatory bail to the petitioner in case FIR No.513 dated 16.09.2017 registered under Sections 120-B, 420 of IPC at Police Station Sector 5 Panchkula.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the FIR in question and he has been made a scapegoat to the exclusion of other persons, who wield a lot of influence. He has further argued that the petitioner was posted as a Manager in the Panchkula Branch of State Bank of Bikaner and Jaipur when co-accused availed 19 housing loans from his branch out of which 14 loans already stand repaid by the borrowers and qua the remaining 5 loans, the borrowers have approached this Court for quashing of the FIR registered against them vide CRM-M-43564-2017. It has been further argued

that in the year 2016, the petitioner had approached this Court vide CRM-M-34695-2016 since he had apprehension that the police was likely to harass him on account of the aforementioned loans which had been sanctioned by his branch. While disposing of the said petition, the official respondents had not only been directed by this Court to ensure due protection to the life and liberty of the petitioner and his family members but a direction had also been issued that in case the petitioner was required in any criminal case/complaint then he would be served with an advance notice of 7 days to enable him to have recourse to legal remedy.

Learned counsel in his petition has laid a great deal of stress on order dated 09.03.2017 passed in CRM-M-34695 of 2016 by urging that there has been non compliance of the aforementioned order. It would be relevant to reproduce the said order thus:

"Heard learned counsel for the parties and perused records of the case.

The present petition is disposed off with the directions to the official respondents to ensure due protection to the life and personal liberty of the petitioner as well as his family members and in case petitioner is required in any criminal case/complaint case, 07 days clear notice be served upon him to have legal recourse. However, any observation made in this order shall not prejudice any legal and legitimate orders of any Court of law."

A perusal of this order leaves no manner of doubt that this Court while passing the aforementioned order had only directed that 7 days notice would be given to the petitioner to enable him to take recourse to legal remedy in case he was required in any criminal case/complaint.

It is a matter of record that FIR was registered much after passing of the aforementioned order on 16.09.2017 and even assuming as pleaded by the petitioner that he had indeed been joining investigation as and when called to do so by the investigating agency, it is not hard to discern and is clearly evident that once the FIR in question had been registered and he had joined the investigation, he was well aware of the registration of the criminal case and thus had ample time to have recourse to legal remedy. Moreover, the submission of the learned counsel for the petitioner that he had been joining investigation right from 11.10.2018 till 23.06.2020, when one ASI Parkash Chander had come to the Branch, where he was posted and threatened to arrest him, would not be of any avail to the petitioner and cannot be termed to be non-compliance of the directions of this Court, as there were no orders, much less, any directions given to the Investigating Agency to intimate the petitioner 07 days in advance each time, when he was to be called for investigation by the investigating agency.

I have heard learned counsel for the parties and gone through the affidavit of the Commissioner of Police, Panchkula and the reply filed by the learned counsel for the petitioner to the aforesaid affidavit of the Commissioner of Police, Panchkula.

Learned State counsel has reiterated the allegations levelled in the FIR in question regarding the connivance of the petitioner with the co-accused of extending unlawful gains to them by sanctioning them loans without following the proper and requisite procedure and only on the basis of photo copies of title deeds of properties which already stood mortgaged. It has been further categorically stated in the affidavit of the Commissioner of Police that the petitioner had been duly intimated and asked on telephone time and again to join investigation on various dates, however, he had failed to do so. It has been further stated in the said affidavit that the petitioner is required for custodial interrogation for recovery of approximately Rs. 3.27 Crores, which had been directly and indirectly diverted to the company of co-accused namely Sarvodya Highway Limited. Learned State counsel has also apprised this Court that proceedings under the Prevention of Money Laundering Act, 2002, have since been initiated against the co-accused.

The allegations against the petitioner are very serious in nature. The petitioner himself has admitted in his affidavit that 19 housing loans were indeed sanctioned by him in his official capacity albeit "on the asking of senior bank officers". Prima facie, it appears to be a huge scam especially when the petitioner himself in his affidavit has admitted to sanctioning various loans to the borrowers on the asking of his seniors and admittedly without adhering to the proper procedure. Hence, his custodial interrogation as prayed for by the State counsel, would definitely be required for proper investigation of the case.

Accordingly, this petition is dismissed. However, nothing contained hereinabove shall be construed as an expression on the merits of the case.