(1994) 07 P&H CK 0055

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 7521-M of 1994

Sham Sunder Dhingra APPELLANT

Vs

State of Punjab RESPONDENT

Date of Decision : 25-07-1994

Acts Referred:

Citation : (1994) 3 RCR(Criminal) 318

Hon'ble Judges : A.S.Nehra, J

Advocate : I.P.S. Sidhu, R.C. Dimri, D.S. Bali, Advocates for appearing Parties

Judgement

A.S. Nehra, J.

1. Sham Sunder Dhingra Branch Manager (under suspension), Central Bank of India, NonBanking Office, Kumhar Mandi, Ludhiana has filed this petition under Section 438, Criminal Procedure Code, for grant of anticipatory bail in a case registered vide FIR No. 12 dated January 16, 1994, under Sections 409, 420, 380, 381 read with Section 120B, Indian Penal Code, in Police Station Kotwali, Bathinda.

2. Firm M/s Sham Sunder Hari Ram, Bathinda, was enjoying the bill purchase facility upto the limit of Rs. 12 lacs plus Rs. 20 lacs since the year 1989 and in consequence of that facility, the Central Bank of India, Bathinda Branch (for short, ''the Bank'') Purchased 10 bills, alongwith 20 railway receipts for Rs. 12,70,000/ from the said firm through its partner Sat Narain Kanodia, who used to visit the Bank frequently. It is alleged in the first information report that said Sat Narain Kanodia removed the said bills and railway receipts from the custody of the Bank and took the delivery of goods there against through his Munim. It is further mentioned in the first information report that the said amount of Rs. 12,70,000/ was credited to the account of the said firm, wherefrom Sat Narain Kanodia transferred the amount of Rs. 12,41,500/ to sister concern M/s Sham Sunder and Company. The first information report reads as under:

"From

Superintendent of Police,

Bathinda,

To

The DDA(Legal),

Bathinda.

No. 1215E, 5315A/SP City,

Dated 11.1.1994.

Subject: Legal Advice.

Memorandum:

With reference to enclosed letter No. 1087 Peshi/93, I was entrusted with the investigation of this application and from the investigation thereof it has come to notice that M/s Sham Sunder Hari Ram, Hospital Bazar, Bathinda, has with the Central Bank of India, Branch Bathinda, a bill purchase limit of Rs.12 lacs in open and 20 lacs rupees seasonal limit since the year 1989. On 29th June, 1992 Shri Sat Narain Kanodia, who is a partner of the abovesaid firm approached the Branch Manager of the abovesaid Branch of the Bank, Shri Sham Sunder Dhingra, who was dealing with the billpurchase, and 10 bills were marked BP 981 to 990, which were in the name of M/s M.P. Kunwors, Quilon, and the total value whereof was Rs.12,70,000/ and which were in relation to railway receipts favouring M/s Nau Bharat Rice Mills, Jalalabad from Railway Station Jalalabad to Railway Station, Quilon, were purchased by Shri S.S. Dhingra the said 10 bills on 29.6.92 and after deducting the Bank Commission a net amount of Rs. 12,62,080 were credited to the abovesaid firm. Out of the abovesaid amount of Rs.12,62,080/ and amount of Rs. 12,41,500/ was given by Sat Narain Kanodia, through cheque No.026999 dated 29.6.92 to M/s Sham Sunder & Company, which is a sister concern of the abovesaid, and on that very day a payment of Rs.12,40,000/ was made by Sat Narain Kanodia.

"On one hand, Sat Pal Kanodia received the value of the abovesaid 10 bills from the Bank, on the other hand Sat Narain Kanodia, in connivance with Shri S.S. Dhingra, Branch Manager, fraudulently after the affixation of the seal of the Bank,. received back, and took the bills and the concerned 20 railway receipts and took the delivery of the goods booked, from railway station Quilon, and sold the goods to different firms. In this way, Sat Narain Kanodia, partner of the abovesaid firm, and Shri S.S. Dhingra, the then Branch Manager, have committed a fraud with the Bank to the tune of Rs.12,70,000/ and cheated. In this connection, the then Manager Shri S. S. Dhingra has not made any report regarding fraud of Rs.12,70,000/ with the Bank either to his Regional Office or to the Police. During the course of inspection held by the Regional Office of Central Bank of India, statement of one of the employees of the abovesaid firm Shri G. Mani was recorded, who in his statement has stated that on 11.7.92 Shri G.

Manisan, employee of the abovesaid firm, had given him abovesaid R.R. (Bilties) got released at Quilon and sold the goods to different firms. The said employee of the firm abovesaid was sent to sell the goods by Sat Narain Kanodia. In this manner the said firm M/s Sham Sunder Hari Ram, Hospital Bazar, Bathinda, Shri Sat Narain Kanodia, who is a partner of the said Firm, and the then Branch Manager Shri S.S. Dhingra, in connivance with each other have committed a fraud with the Bank.

"In this connection the complaint made by the Bank and the connected record is being sent herewith. After perusing the same, legal opinion may be given."

3. Application for anticipatory bail filed by the petitioner was earlier declined by this Court on March 31, 1994 vide order passed in Crl. Misc. No. 4991M of 1994. This second application for anticipatory bail has been filed by the petitioner on the ground that that Sat Narain Kanodia, coaccused of the petitioner, had been granted anticipatory bail by this Court on April 22, 1994, vide orders passed in Crl. Misc. No. 4772M of 1994 and, therefore, the petitioner is also entitled to be granted the concession of anticipatory bail.

4. After hearing the learned counsel for the parties, I am of the view that this is not a fit case for grant of anticipatory bail to the petitioner.

This petition is accordingly dismissed.