(2007) 10 AHC CK 0046

In the Allahabad High Court

Vivek Pant and Gurjeet Singh APPELLANT

Vs

State of Uttar Pradesh RESPONDENT

Date of Decision : 05-10-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 409, 420, 467

Citation : (2007) 10 AHC CK 0046

Hon'ble Judges : Ravindra Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ravindra Singh, J.—This bail application has been filed by the applicants Vivek Pant and Gurjeet Singh with a prayer that they may be released on bail in case crime No. 10 of 2004 under Sections 409, 420, 467, 468, 471, 120-B IPC, P.S. Pilakhuwa, District Ghaziabad.

2. The prosecution story in brief, is that F.I.R. of this case has been lodged by the applicant Vivek Pant on 14.1.2004 at 1.30 P.M. against Jameel-Ul-Hasan, the Chairman of Sahkari Samiti Bank Limited and Devi Dayal Singh alleging therein that ICICI bank limited issued safety bonds to its customers, on the maturity of these bonds the bank returned the bonds loan along with the interest to its customers through cheques/warrants which are sent through UPC from Girigaon Head Post Office and Chakta MIDC Post Office. In the month of December some of the customers gave a complaint in writing to bank that they have not received the cheques/ warrants of the bonds, on inquiry it was found that the cheques/ warrants have already been dispatched by the bank from Mumbai headquarter to its customers. It was also found that these cheques/warrants have been intercepted on the way to the customers and by making some chemical interpolation in the cheque/warrants which is not visible by the nacked eyes and by putting the name of Resort Sahkari Samiti Bank Limited were presented for clearing in the Ghaziabad Urban Cooperative Bank and got in cashed. The applicant Vivek Pant (First informant) had given a letter to Ghaziabad Urban

Cooperative Bank requesting to furnish the details of the Reshort Sahkari Samiti Bank Limited and for the information of presentation of any cheque/ warrants by Resort Sahkari Samiti Bank Limited in future. The matter was enquired by the ICICI bank, it was found that 617 cheque/warrants have been in cashed by the Resort Sahkari Samiti Bank Limited fraudulently in between period of 21.10.2003 to 27.11.2003. The Resort Sahkari Samiti Bank Limited in a very clandestine manner had manipulated the chaque/warrants by changing the name and account number of the cheque/warrants and by putting the name and account number of Resort Sahkari Samiti Bank Limited and got in cashed through Ghaziabad Urban Cooperative Bank. The information of such fraudulent act has been given to Ghaziabad Urban Cooperative Bank with a request to seal the account of Resort Sahkari Samiti Bank Limited but the bank account was not sealed, the Resort Sahkari Samiti Bank Limited has caused a loss of Rs. 45,57,234/- to the ICICI bank limited. The Chairman of Resort Sahkari Samiti Bank Limited was Jameel-Ul-Hasan, its Secretaries were L.A. Hasan and Devi Dayal Singh. During investigation it was found that cheque/warrants which were issued by ICICI bank, Mumbai to its share holders or bonds holders were finally cleared by ICICI Bank, Ghaziabad where applicant Vivek Pant was Manager and the applicant Gurjeet Singh was employee of the Bank. They were responsible for this clearance against forged and fabricated cheques. All the cheques were related to ICICI bank and from necked eyes it can be detected some manipulations done in the cheques by rubbing the name of bank and account number but having a conspiracy with other co-accused who were employee of Urban Cooperative Limited, Ghaziabad branch Pilakhuwa and with account holders of forged bank Resort Sahkari Samiti Bank Limited a huge amount of Rs. 45,57,234/- has been withdrawn by holders of Resort Sahkari Samiti Bank Limited. After inquiry it has also been established that amount of Rs. 73,83,146/- has been withdrawn by the accused persons with the conspiracy of all the employee, Urban Cooperative Bank and Resort Sahkari Samiti Bank Limited in which the present applicants are actively involved. The applicant applied for bail before learned Addl. Sessions Judge Court No. 2, Meerut, the same has been rejected on 30.3.2007, being aggrieved from the order dated 30.8.3007 the applicants have filed the present bail application.

3. Heard Sri G.S. Chaturvedi, Senior Advocate assisted by Sri Manish Trivedi and Sri V.S. Misra, learned Counsel for the applicants and learned A.G.A. for the State of U.P.

4. It is contended by learned Counsel for the applicants that applicant No. 1 has lodged the F.I.R. He is the person who made the complaint against the fraudulent act committed by other co-accused and it was not possible for any Manager to keep and examine minutely all the cheques/ warrants which are cleared daily in the branch as in the branch where the applicants were posted approximately 600 to 700 cheques/ warrants were cleared daily, the entire transaction goes up to approximately 2.523 crores. The warrants/ cheques deposited by bonds holders in their respective banks which are presented by the beneiciaries bank to the

ICICI bank to local clearing house which in this case was S.B.I. Ghaziabad, after receiving the cheques/ warrants, its details are kept in the software. The fraud committed by Resort Sahkari Samiti Bank Limited came to knowledge of applicant No. 1. the letter was issued to Ghaziabad Urban Cooperative Bank to the effect that such fraudulent activities were being done by the Resort Sahkari Samiti Bank Limited in connivance with Ghaziabad Urban Cooperative Bank and they are liable to refund the money. The applicants have no role in the commission of the. alleged offence. In the present case Sri Ravi Dutt Sharma has been released on bail in Crl. Misc. Bail Application No. 9606 of 2005 on 28.7.2005 and accused Gulab Singh has been released on bail on 29.9.2005 in Crl. Misc. Bail Application No. 14427 of 2005 and co-accused K.G. Singhal has been released on bail on 6.2.2006 in criminal Misc. Bail Application No. 19027 of 2005. The applicants are also entitled for bail on the ground of parity. The applicants are having no motive to commit the alleged offence and nothing incriminating has been recovered from the possession of the applicants. The applicants are having no criminal antecedent, therefore, they may be released on bail.

5. In reply of the above contention, it is submitted by learned A.G.A. that in a pre planned manner committed a forgery in the cheque and warrants in a fraudulent manner the applicants and another co-accused persons have withdrawn a very huge amount from the bank. The applicants are main accused, they are having no parity with the co-accused who have been released on bail by this Court, therefore, they may not be released on bail.

6. Considering the facts, circumstances of the facts, submission made by learned Counsel for the applicants, learned A.G.A. it appears that the gravity of the offence is too much and without expressing any opinion on the merits of the case the applicants are not entitled for bail. The prayer for bail is refused.

7. Accordingly this application is rejected.