

CNR No. PBPO010013962018

BA-307/2018

State vs Kaushal Khajuria

Present:- Shri Joginder Pal Singh Adv. counsel for applicant-accused
Shri Vivek Puri Public Prosecutor for the State

This order of mine shall dispose of application for anticipatory bail moved on behalf of applicant Jaswinder Kaur on the ground that the applicant has been summoned under section 319 of CrPC by this court vide order dated 09.01.2018 to face trial. The applicant is innocent and has been falsely implicated. Perusal of the report under section 173 CrPC shows that there is no prima facie case against the applicant to connect her with the alleged offences. Moreover the applicant was cited as a witness by the prosecution in this case and she has been examined. It is submitted that the applicant be released on anticipatory bail.

I have seen the file. I have also heard learned counsel for the applicant, learned Additional Public Prosecutor.

This court had summoned the present applicant on application moved under section 319 of CrPC and after seeking the record. This court had specifically observed in the summoning order. The relevant part of the order is reproduced as under regarding the present applicant:-

“ Jaswinder Kaur instead of using the amount for the purpose of dairy purpose, same day releases the same in favour of different loanees with whom she has no connection and the loan is approved directly by the District Manager and as per evidence so far come on record there was a committee formed to process the document and retired Patwari was there to assist the committee and the disbursement of the amount was at the District Level when the amount was ordered to be released.

Earlier on 30.10.2017 the application was moved for summoning of Jaswinder Kaur, Pargat Singh husband of Jaswinder Kaur, Sarabjit

Singh District Manager Gurdaspur Cooperative Bank, Karan Singh Branch Manager Gurdaspur Cooperative Bank as co-accused in the present case. Therefore from the evidence which has so far come it is clear that there is a concurrence on the part of Sarabjit Singh which is revealed from the very fact that on the same day dairy loan is advanced to the tune of ₹ 20 lakhs and amount of same is not used for dairy purposes but it was being used for transferring the same in the account of other loanees i.e. the loan which was advanced by the District Manager to other different persons with whom there was no relationship on the part of main loanee Jaswinder Kaur. Jaswinder Kaur was allowed loan of ₹ 40 lakhs meaning thereby out of ₹ 80 lakhs, ₹ 40 lakhs was advanced to Jaswinder Kaur and she utilized more than ₹40 lakhs from the said loan amount and defaulted in a sum of ₹ 46,46,411-05 paise. However the loan document submitted were genuine but the very fact that the amount received was supposed to be disbursed for purchase of different items as an agricultural loan which has a lesser rate of interest, same was used for making payment of different loans which were released in favour of different accused who obtained the loan and even some of the accused also sold the property in her favour which has come on record. Therefore there is element of conspiracy on the part of Jaswinder Kaur, Sarabjit Singh District Manager Gurdaspur Cooperative Bank.

As already observed the conspiracy is very much clear from the fact that the amounts were released to different loanees. The property was also purchased by Jaswinder Kaur of accused as well.”.

Learned counsel for the applicant has contended that she was not arrayed as an accused. She was cited as a witness and therefore the loan, which was obtained, was also repaid.

On the other hand learned Additional Public Prosecutor has contended that the very purpose of grant of loan was for running a dairy business and not even a single penny was spent by the present applicant for anything relating to the dairy business which means that the committee had advanced the present loan knowing it very well that this

loan is not going to be used for the dairy business and committee had not taken into consideration any relevant document which the present applicant supplied for running the dairy business or project report etc and further more the present loan was a kind of personal loan for which there was a higher rate of interest and in connivance with the accused the amount of the bank was misused to advance dairy loan which is always granted on a lesser interest and on the same day the amount was disbursed to different persons who are also accused. He has strongly opposed the application for anticipatory bail.

From the perusal of the record, this court is of the opinion that there was active concurrence in the commission of the offence and the very fact that the loan was released by the sub committee headed by District Manager in her favour without scrutiny of the record, without making sure that the amount is disbursed to the persons from whom either any dairy product was to be purchased namely fodder etc., or any animals were to be purchased or any equipment relating to construction of the shed etc., for the purpose of dairy business was to be ensured. This applicant in fact released the amount in favour of other persons who are also co-accused in this case in their accounts. Therefore, the court found that there was active concurrence of this particular loanee in the commission of offence along with the accused facing trial as well as accused Sarabjit Singh. Under the circumstances I do not find any ground to allow the application for anticipatory bail. The bail application is without merit and the same is therefore dismissed. Copy of this order be sent to the SHO PS concerned for information. Bail application file be tagged with the main sessions trial case.

(Rakesh Kumar Sharma),
Additional Sessions Judge
Pathankot/UID-PB-0133

Dated:24.05.2018
(Sawtanter Kumar)
Stenographer-II