

Deepak Singla Vs. State of Punjab.

BA-1032-2022

CNR no. PBBR01-003212-2022

Present: Sh. SS Rahi, Advocate, counsel for the applicant/accused.
Smt Sukhraj Kaur, Addl. Public Prosecutor for the State assisted by
IO/ASI Darshan Singh.
Sh. Amit Goyal, Advocate, counsel for the complainant.

Police record produced and perused. Complainant appeared suo moto through his counsel Sh. Amit Goyal, Advocate and he has also filed power of attorney on behalf of complainant, same is taken on record.

Investigating Officer ASI Darshan Singh has submitted written reply that no such bail application of applicant is pending or decided by the Hon'ble High Court.

Having heard the submission of Learned Counsel appearing on behalf of the respective parties, besides perusing police record, this court finds that the FIR bearing no. 401 dated 13.09.2022, U/s 420, 120B of IPC, Police Station, City Barnala has been registered against the applicant and other persons. The offences under which the FIR has been registered is punishable upto 7 years. The aforesaid FIR has been registered at the instance of Kavish Goyal and Vikas Kumar. In the application submitted before SSP, Barnala, it is alleged that one Sohan Lal Singla conspired with his relative and after making a planned conspiracy cheated the applicant. Admittedly, the father of the applicant namely Sohan Lal Singla availed financial assistance from State Bank of India, Ambala Cant, Branch and at that time he had executed loan documents and admittedly the complainant had also executed guarantee deed of official commercial site comprised in 2 kanal 1 marla situated in the revenue limits of village Handiaya-C and now falls within the ambit of Barnala and land is registered in the name of M/s Om Shree Ganesh Enterprises. When the applicant availed the credit facilities, however failed to liquidate the liability and when the accounts was

classified as non-performing assets and accordingly in pursuance of provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the bank proceeded against the property of the complainant which he had mortgaged with the bank and there-after in the year 2021 auctioned the said property. Thereafter as per the complainant version and no denial by the learned counsel during the course of arguments, an agreement dated 15.03.2016 was also executed between the complainant party and applicant party including applicant, whereby the applicant along-with other persons who arrayed as accused in the instant case have agreed to get redeemed the mortgage by paying the loan amount to the bank in order to release the property of the applicant but instead of paying the amount to the bank, they allowed the bank to proceed and to auction the property of the complainant. In this manner, the complainant alleged that, the applicant alongwith his father Sohan Lal Singla and other family members conspired and cheated him as neither the father of the applicant deposited the loan amount well in time in State Bank of India, Ambala Cant nor he had deposited the loan amount with the bank in order to get the property of the applicant redeemed in pursuance of agreement dated 15.03.2016. Upon receiving the application of the complainant, the matter was got inquired to SP (H), Barnala and in pursuance of opinion found by SP (H), the Police of Police Station, City Barnala has registered the FIR against applicant and other persons.

Learned counsel appearing on behalf of applicant submitted that it is evident from the FIR that no overt-act has been assigned to the applicant and further more the dispute is of civil nature and the entire case is based on documentary evidence, as such custodial interrogation is not required for any purpose as nothing is to be recovered from the applicant.

On the other hand, Learned Addl. Public Prosecutor assisted by IO ASI Darshan Singh submitted that upon receiving the application the matter was got inquired from SP (H), Barnala and who after conducting the inquiry has found that a case against the applicant as well as other persons is made out, as they conspired with each other and cheated the complainant and they opposed the prayer of anticipatory bail.

Learned counsel appearing on behalf of complainant submitted that due to the willful default of applicant as well as other family members, the bank proceeded against the property of the complainant and thereafter sold the property in auction. He further submitted that the applicant and his family members have intentionally failed to liquidate the liabilities in order to cause wrongful loss to the complainant and also did not get redeemed the property despite an agreement was executed by the applicant and his family members on 15.03.2016, but it is matter of record that in the year 2021 the bank has taken steps to take possession of the property of the complainant and accordingly auctioned the property to recovery the loan amount. He further submitted that in view of the gravity of the offence and seriousness of the allegations, no case is made out in favour of the applicant, at this stage.

Having heard the submission of Learned Counsel appearing on behalf of the respective parties, besides perusing police record and taking into consideration the facts of the case, nature of allegations, the role attributed to the accused/applicant however without discussing the evidence in detail, at this stage, this court is of the view that since the entire case of the complainant is based upon documentary evidence, in regard to the execution of loan amount and guaranteed deed and thereafter default committed by the borrower and the auction of the mortgage

property by the bank, as such custodial interrogation of applicant is not required. Thus, this court deems it proper to direct the applicant/accused to join investigation with Investigating Officer/arresting Officer as and when called by the Investigating Officer in the case FIR bearing no. 401 dated 13.09.2022, U/s 420, 120B of IPC, Police Station, City Barnala and it is also made clear to the Investigating Officer/arresting Officer that in the event of arrest of the applicant, he shall be released on interim bail on his furnishing bail bonds and surety bonds to the satisfaction of Investigating Officer/arresting Officer. The applicant shall be abide by the terms and conditions incorporated U/s 438 (2) of Cr.P.C. Record be now produced on 29.09.2022.

(Kamaljit Lamba)
Sessions Judge, Barnala
(UID PB0055)

Date of order:22.09.2022
Amit Stenographer-II