

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

**CRM-M-16299 of 2015(O&M)
Date of decision : 26.05.2015**

Amrinder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Sanjiv Gupta, Advocate
for the applicant-petitioner.

- 1. Whether Reporters of local papers may be allowed to see the judgement?Yes**
- 2. To be referred to the Reporters or not?Yes**
- 3. Whether the judgement should be reported in the Digest?Yes**

DARSHAN SINGH,J

1. This is the second petition filed by petitioner Amrinder Singh for grant of the anticipatory bail in case FIR No. 178 dated 14.09.2014, under Sections 406, 420 of Indian Penal Code (for short IPC), Police Station Sadar Patiala, District Patiala.

2. As per the prosecution allegations, complainant Devender Singh and Nirmal Singh were called by the

present petitioner at his house, where his co-accused Jatinder Singh, Neeraj Verma and Arvind Kumar were also present. They disclosed that they deals in Real Estate and mutual investment market. If they will invest money with them, then they will give profit at the rate of 10 %. Due to the aforesaid inducement Devender Singh paid Rs. 3 lac on 22.11.2010, Rs.2,87,000/- on 29.11.2010, Rs. 2 lac on 01.11.2012 to the aforesaid persons. They returned back only Rs. One lac to complainant Devender Singh and again demanded Rs. 98,000/- more from him. Nirmal Singh also paid the accused a sum of Rs. 1,08,000/-. The complainants were duped and the small amount on one or two occasions towards profit were paid, but later on the whereabouts of their company or the persons running the said company ceased to exist.

3. The earlier petition for grant of the anticipatory bail of the present petitioner has been dismissed by the Coordinate Bench of this Court vide order dated 06.01.2015 on merits. Hence this second petition.

4. Learned counsel for the petitioner contended that as per the prosecution allegations, the money was only paid to co-accused Jatinder Singh and Neeraj Verma. There is no allegations against the present petitioner that he had received any money. He further contended that the inquiry

was conducted by the police wherein the petitioner was found innocent. The said inquiry was not in the knowledge of the petitioner at the time of first petition. He contended that the petitioner is ready to join the investigation. The right of personal liberty is a constitutional right. The involvement of the present petitioner in the present occurrence is not made out. So, he deserves the concession of the anticipatory bail. To support his contentions he has relied upon case **Sidhram Satlingappa Mhetre Vs. State of Maharashtra and others, 2011 AIR S.C 312.**

5. I have duly considered the aforesaid contentions raised by learned counsel for the petitioner.

6. This is the second petition for grant of the anticipatory bail filed by the petitioner. The legal position is well settled that the subsequent bail application can be justified only on substantial change in the fact situation. The said change, however, must be substantial one which has a direct impact on the earlier position and not merely cosmetic changes which are of little or not consequence. To support this view reference can be made to case **State of Maharashtra Vs. Capt. Buddikota Subba Rao, 1989(2) R.C.R (Criminal) 612.** In case **Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappy Yadav, 2004(2) R.C.R (Criminal) 254,** the Hon'ble Apex Court has laid down that the Court

which entertain the subsequent bail, has a duty to consider the reasons and grounds on which the earlier bail application was rejected. The Court also has a duty to record what are the fresh grounds which persuaded it to take a different view from the one taken in the earlier petition. In case **Prasanta Kumar Sarkar Vs. Ashish Chatterjee and another, AIR 2011 S.C 274,** the Hon'ble Apex Court has laid down that in case of the subsequent bail application being allowed, the Court will have to give specific reasons as to why in spite of such earlier rejection the subsequent application for bail should be allowed. In view of the aforesaid ratio of law, the subsequent bail application can only be entertained if there is a real and substantial change in the fact situation.

7. In the instant case, the copy of the order dated 06.01.2015 passed by the Coordinate Bench of this Court shows that all the pleas raised by the petitioner on the merits were duly considered and thereafter, the petition was dismissed.

8. The change in the fact situation is alleged on the ground of some inquiry report. Learned counsel for the petitioner has drawn my attention to the copy of order dated 27.04.2015 passed by the learned Additional Sessions Judge, Patiala, which shows that the reference of some

inquiry report dated 05.3.2015 was made by learned counsel for the petitioner. But, no copy of such report has been placed on record to show as to what findings have been given in that inquiry report. The inquiry report dated 05.03.2015 (Annexure P-4) was already available to the petitioner even at the time of the decision of the first petition by this Court. Moreover, the perusal of the FIR (Annexure P-1) shows that even at the time of registration of the case the inquiry was conducted by the Incharge Economic Wing, Patiala, which was approved by the Superintendent of Police and after obtaining the legal opinion from the District Attorney (Legal), Patiala, the matter was sent to the S.H.O, Police Station Sadar Patiala for registration of the case. In that inquiry dated 14.07.2014, the complicity of the present petitioner was clearly indicated. Thus, **Sidhram Satlingappa Mhetre's case (Supra)** relied upon by the learned counsel for the petitioner is of no help to the petitioner on facts.

9. Thus, keeping in view of my aforesaid discussion, there is no change in the fact situation since the dismissal of his first petition for grant of the anticipatory bail. No new ground to seek the anticipatory bail had accrued to the present petitioner. He has also not been able to make out the exceptional case to claim the extra ordinary privilege of the anticipatory bail.

10. Consequently, the present petition has no merits
and the same is hereby dismissed.

26.05.2015

s.khan

**(DARSHAN SINGH)
JUDGE**