

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.34941 of 2016 (O&M)
Date of Decision : 03.10.2016

Shambhu Kumar

..... Petitioner

Versus

U.T. Chandigarh

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Preet Kamal Singh Phoolka, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

This is a second petition for anticipatory bail in case FIR
No.28 dated 16.02.2016, registered under Section 420 IPC at P.S. North
Chandigarh.

The petitioner had earlier filed a petition bearing CRM-M-
19240-2016 which was decided on 28.07.2016 by this Court by passing

the following order:-

“After arguing for some time, counsel for the petitioner prays for permission to withdraw this petition. Allowed as prayed for. Dismissed as withdrawn. Interim order dated 9.6.2016 is vacated.”

The second petition has been filed on the ground that even after the lapse of more than 2 months no further material has been collected by the prosecution agency which may justify the requirement for custodial interrogation of the petitioner. In the first place, this itself is no ground for filing a second petition because this cannot be termed to be such a change in the circumstances so as to justify a second petition.

The allegations against the petitioner are very serious. Being a banker he is alleged to have misappropriated the account lying in the name of a dead depositor and opened a second account in the name of that dead person and transferred the entire amount to that account. On being uncovered, he admitted his fault and re-deposited the money in the original account.

Learned counsel has argued that this entire process cannot be done single handedly. In fact that is the very reason why this petition must be declined. The Court below noticed as follows:-

“.....the original record of the fake account opened is with the accused-application, which he has not provided and his

custodial interrogation is required in order to ascertain the facts regarding the said document on the basis of which fake account was opened and for ascertaining the role of other accomplices, if any.”

The reasons apply with full force even today because evidently since the dismissal of the petition by the Additional Sessions Judge, Chandigarh on 17.05.2016 the petitioner had been able to evade his arrest. The Hon'ble Supreme Court in the matter of ***Sudhir vs. State of Maharashtra and another, 2015(4) RCR (Criminal) 649*** has held as under:-

“13. Having considered the submissions made by learned counsel for the parties, and after considering the gravity of the offence, circumstances of the case, particularly, the allegations of corruption and misappropriation of public funds released for rural development, and further considering the conduct of the appellants and the fact that the investigation is held up as the custodial interrogation of the appellants could not be done due to the anticipatory bail, we are of the opinion that the High Court has rightly cancelled the anticipatory bail granted to the appellants by the Additional Sessions Judge, Jalgaon. Therefore, we are not inclined to disturb the same.”

Consequently, there cannot be said to be such a change in

The petition stands dismissed.

Since the main cases have been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

October 03, 2016
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No