

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

**Crl. Misc. No.M-30561 of 2017 (O&M)
Date of Decision: November 14, 2017**

Avtar Singh

.....PETITIONER(s).

VERSUS

State of Punjab

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Talwinder Singh, Advocate
for the petitioner (s).

Mr. Luvinder Sofat, A.A.G. Punjab.

Mr. Rajbir Singh, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.128 dated 21.07.2017 registered for the offences punishable under Sections 406, 420 read with Section 120-B of Indian Penal Code at Police Station Kharar, District SAS Nagar Mohali.

Mr. Talwinder Singh, Advocate has put in appearance as counsel for the petitioner and has filed fresh power of attorney, which is taken on record.

Heard.

Learned State counsel on instructions from ASI Balbir Singh

submits that petitioner has joined the investigation, which is still in progress but his custodial interrogation is not required for the purpose of further investigation.

Learned counsel for the petitioner submits that earlier counsel for the petitioner had made submission on 21.08.2017 about deposit of draft of ₹2.50 lakh which was without any instruction from the petitioner, as such, this amount be returned to the petitioner.

On 21.08.2017, the order was passed as follows:-

“Learned counsel for petitioner submits that the petitioner is ready to bring draft of ₹2.50 lakhs, in the name of complainant to settle the dispute amicably. He further submits that he will bring the draft on next Monday i.e. 28.8.2017.

Notice of motion.

Mr. Rajbir Singh, Advocate, who is present in court, has put in appearance on behalf of complainant.

In the meanwhile, petitioner is directed to surrender before the police and join investigation within two weeks. In the event of his arrest being required, he shall be released on interim bail till the next date, subject to his furnishing bonds to the satisfaction of Arresting Officer. However, he shall abide by the terms and conditions as envisaged under Section 438(2)(i) to (iv) Cr.P.C. failing which he shall lose the benefit of interim bail allowed to him.

List on 28.8.2017.

It is, however, made clear that interim bail has been allowed to the petitioner on the submissions of learned counsel for petitioner that he will bring draft of ₹2.50 lakh on the next date of hearing.”

There is no application or affidavit of the petitioner that submissions were made by previous counsel without his instructions. The statement of learned counsel for the petitioner appears to be fallacious as on the next date i.e. 11.09.2017, the petitioner had brought a draft of ₹2.50 lakh in the name of Jaswinder Kaur, complainant and the same was ordered to be deposited with the Registrar (Judicial) of this Court.

The dispute in this case pertains to the withdrawal of ₹17,32,500/- which was received by complainant on the death of her son. The petitioner had voluntarily agreed to bring draft of ₹2.50 lakh in the name of complainant and had deposited the same with this Court. At the time of making such submissions and depositing the draft, the intention of the party was quite clear. However, I do not want to go in elaborate discussion on this point and in view of submission of learned State counsel, the present petition is allowed and order dated 21.08.2017, granting interim bail to the petitioner, is made absolute till the presentation of challan, subject to the following terms:-

- (i) that the petitioner shall make himself available for interrogation by the police as and when required;
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioner shall not leave India without the prior permission of the Court.
- (iv) that the petitioner will seek regular bail on the presentation of challan in Court, which the trial Court will decide on the basis of evidence collected during investigation.

A fixed deposit of the amount of ₹2.50 lakh, draft of which has been deposited with Registrar (Judicial) of this Court, be prepared in the name of complainant Jaswinder Kaur by depositing the same with State Bank of India, High Court Branch. Payment of this amount will be made as per order of this Court or of the trial Court after conclusion of the trial. Complainant, if required, be called to append her signature in the bank.

November 14, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***