

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Criminal Miscellaneous No.M-48374 of 2017

Date of decision : October 25, 2018

Sarwan Singh Phillaur and another

..... PETITIONERS

VERSUS

Deputy Director, Directorate of Enforcement, Jalandhar Zonal Office, Jalandhar.

..... RESPONDENT

**CORAM : HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE A.B. CHAUDHARI**

**PRESENT: Mr. Vikram Chaudhari, Senior Advocate, with
Mr. Rahil Mahajan and Ms. Isha Goyal, Advocates,
for the petitioners.
Ms. Ranjana Shahi, Advocate, for the respondent.**

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1. Whether Reporters of local newspapers may be allowed to see the judgment? Yes/No

2. To be referred to the Reporter or not? Yes/No

3. Whether the judgment should be reported in the digest? Yes/No

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A.B. CHAUDHARI, J.

This is a petition filed by petitioners; Sarwan Singh Phillaur and Damanvir Singh Phillaur, for grant of anticipatory bail in Complaint Case bearing COMA No.8 of 2017 dated 12.07.2017 under Section 45(1) of the Prevention of Money Laundering Act, 2002 (for short 'the Act'), for commission of offence under

Section 3, punishable under Section 4, of the Act. The aforesaid

complaint was filed by the respondent-ED under Section 45(1) of the Act.

By order dated 18.12.2017, this Court granted ad-interim anticipatory bail to the petitioners by placing reliance on the recent decision of the Supreme Court in Nikesh Tarachand Shah vs. Union of India and another, 2017-SCC Online SC 1355.

It is not in dispute that in the said Criminal Complaint case pending before the Special Court, the charges have also been framed against the petitioners and their co-accused. It is in this backdrop that we made a query from the learned counsel appearing for the respondent-ED as to whether the custody of the petitioners is really required and, if yes, why it is required ? However, the respondent-ED has not shown any inclination nor placed on record any material for claiming the custody of the petitioners. Looking to the nature of the complaint which we have seen and the offence alleged, and balancing the interest of both the prosecution as well as the accused, we think there is no reason why the ad-interim order granting anticipatory bail made by this Court on 18.12.2017, should not be made absolute.

Learned counsel for the respondent-ED, however, made a submission that the petitioners are influential persons and may tamper with the prosecution evidence as one of the petitioners was a Minister in the earlier government.

We do not agree with the submission that if a person was a Minister and an influential person, he may necessarily tamper with the prosecution evidence. However, we grant liberty in favour of the respondent-ED that in case such an

exigency arises, the respondent-ED may approach this Court for modification of the present order confirming ad-interim anticipatory bail order dated 18.12.2017.

In the result, we make interim order dated 18.12.2017 absolute subject to the condition that the petitioners shall appear before the trial Court with promptitude to face the trial and shall surrender their respective passports to the trial Court as a pre-condition for the present order, within a period of 15 days from today.

The petition is, accordingly, disposed of.

(KRISHNA MURARI)
CHIEF JUSTICE

(A.B. CHAUDHARI)
JUDGE

October 25, 2018
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