

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

CRM-M-5939-2018

Date of decision: March 19, 2018

Surjeet Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Gourav Jain, Advocate
for the petitioner.

Mr. Raj Kumar Makkad, DAG, Haryana.

RAJ SHEKHAR ATTRI, J.(ORAL)

Through the instant petition preferred under Section 438 of Code of Criminal Procedure, petitioner has sought anticipatory bail in case bearing FIR No.12 dated 10.01.2018, under Sections 419, 420, 467, 468 and 471 of the Indian Penal Code, registered at Police Station City Tohana, District Fatehabad.

Buta Singh son of Goma Singh was a pensioner and drawing his pension from the State Bank of India, Branch Railway Road, Tohana. He had died on 25.12.2015 but after his death, his son Surjit Singh continued to withdraw the amount of pension either through cheques or through bank account or through Automated Teller Machine (ATM) from the bank. On receipt of information to the effect that even after the death of Buta Singh, his son is withdrawing the amount from the bank, therefore, enquiry was conducted. After completion of the enquiry, the Enquiry Officer-cum-Chief Manager, State Bank of India, Branch Railway Road, Tohana submitted a letter to the SHO, Police Station City Tohana

for registration of the FIR, on the basis of which FIR was registered.

I have heard learned counsel for the petitioner and gone through the record.

Learned counsel for the petitioner submitted that there is no evidence that the petitioner had submitted any document with bank or he had withdrawn any amount from the bank account of the deceased-father. However, it has been admitted that Buta Singh died on 25.12.2015.

On the other hand, learned State counsel submitted that the petitioner has submitted the 'alive' certificate of Buta Singh to the bank and he had been withdrawing the amount of pension by asserting that Buta Singh is alive and he himself identifying Buta Singh by impersonating before the bank officials at the time of withdrawing the cheques. He further submitted that sometime one Ramandeep and one Nisha had also identified Buta Singh before the bank and those persons are in the knowledge of the petitioner, therefore, custodial interrogation is necessary.

This Court has given its thoughtful consideration to the rival contentions and carefully gone through the evidence available on record.

In the police file the original cheques bearing No.920736 dated 01.10.2017 amounting to Rs.15000/-; 570525 dated 05.04.2017 amounting to Rs.20,000/-; 920737 dated 07.10.2017 amounting to Rs.10,000/- and 570524 dated 05.06.2017 amounting to Rs.20,000/- have been placed.

Prima facie, it is made out that Buta Singh had died on 25.12.2015 and after his death, huge amounts have been withdrawn either by way of ATM or by way of cheques. Above numbered four cheques

have been signed by Buta Singh before the bank official which transpires that he identified Buta Singh before the officials of Bank. In fact he had identified an impersonator.

The purpose for introducing Section 438 in the Code of Criminal Procedure, 1973 that it was felt imperative to evolve a device by which an alleged accused is not compelled to face ignominy and disgrace at the instance of influential people who try to implicate their rivals in false cases. However, the power to grant anticipatory bail is an exceptional. The consideration governing exercises on behalf of discretion for granting anticipatory bail are materially different from those of an application in regular bail. An anticipatory bail not to be granted as a matter of right and should be granted only if special case is made out and court is convinced that a person should not misuse his liberty.

To the mind of this court, petitioner is not entitled to grant of anticipatory bail. Custodial interrogation is necessary, therefore, petitioner is not entitled to extend the benefit of bail.

Dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

March 19, 2018
m. sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No