

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.

CRM-M-16371 of 2020 (O&M)
Date of decision: September 23, 2020

Kulwant Singh Sethi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Pankaj Bhardwaj, Advocate for the petitioner.
Mr. R.S. Thind, DAG, Punjab assisted by
Mr. Amit Arora, Advocate for the complainant.

Ashok Kumar Verma, J.

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

The petitioner has approached this Court for anticipatory bail under Section 438 of the Code of Criminal Procedure in case FIR No.66 dated 25.02.2020, under Sections 379-B, 342, 459, 506, 34 IPC and Sections 395, 411, 325 IPC added later on, registered at Police Station City Tarn Taran, District Tarn Taran.

Brief facts of the prosecution case are that as per statement made by Bakshish Singh on the fateful day at about 10.45 PM, a person knocked the gate of the *Dera* and told the complainant that they had already talked with Baba Mahinder Singh about the seriousness of their patient and want to admit him in the hospital and they also want to meet Baba Jiwan Singh Ji. When he opened the gate, he saw that the three persons entered into the Dera forcibly

and stopped their vehicle near the room of Baba Ji, whereas one person kept sitting in the car. The complainant had also seen that one of them was holding the arm of Baba Ji and pulled him in the room and he was given severe beatings by the aforesaid three persons. The complainant was also caused injuries.. The accused had stolen the offered money (*Chadhawa*). After stealing his mobile phone, accused fled away from the spot alongwith money. On the said averments instant FIR was registered.

Learned counsel for the petitioner contends that petitioner is innocent, who has been falsely implicated in this case; initially FIR was registered under Section 379-B of IPC and later on Section 395 IPC was added. There is no incriminating material against the petitioner except the so called disclosure statement made by accused Sukhchain Singh, which is inadmissible. The petitioner has been doing the business of foreign exchange money changer for the last 20 years under the licence issued by Reserve Bank of India (Annexure P-5). He has lastly contended that the petitioner is 70 years old and is suffering from diabetes and is ready and willing to join the investigation but the police was bent upon to arrest him just in order to humiliate him.

Per contra, learned State counsel assisted by Mr. Amit Arora counsel for the complainant have argued that the petitioner has been nominated as accused being sole proprietor of M/s Sethi Forex Pvt. Ltd. Amritsar, in which the petitioner illegally and without any legal sanction exchanged Indian currency of Rs.91,00,000/- into US \$1,30,000 (American dollar) in order to aid the co-accused Sukhchain Singh to keep the said amount in his bank locker and in this regard letter No.664-5E dated 18.05.2020 was also sent to the Director

Enforcement, Jawahar Nagar, District Jalandhar for taking legal action against the petitioner in accordance with law. He has further submitted that the petitioner has committed serious offence, which is against the Society. He lastly argued that the custodial interrogation of the petitioner is very much required in order to unearth the foreign money exchange racket running in the State of Punjab. Therefore, the petition may be dismissed.

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

According to prosecution, accused Sukhchain Singh alias Chaina disclosed to the police that he had exchanged the Indian currency of Rs.91,00,000/- with the American Dollar from M/s Sethi Forex Pvt. Ltd. Amritsar @ Rs.70/- per dollar, regarding which letter No.664-5E dated 18.05.2020 was also written to Director Enforcement, Jalandhar for taking legal action against the petitioner in accordance with law. The petitioner being sole proprietor of M/s Sethi Forex Pvt. Ltd. illegally and without any legal sanction exchanged Indian currency of Rs.91,00,000/- into US \$1,30,000 (American Dollar) in order to aid the co-accused Sukhchain Singh to keep the said amount safe in his bank locker. It is further alleged that as per the guidelines of Reserve Bank of India, cash exchange can be made only upto a maximum of Rs.50,000/- and if the payment is made through cheque/NEFT/RTGS, then a maximum exchange of \$3000 per person is allowed. In every case a copy of all the mandatory documents like passport/Visa/PAN card etc. are kept for record and a proper entry is made in the registers maintained as per the guidelines of the RBI, which are open for inspection by the RBI at any time. The petitioner did not obtain any

PAN card etc. from the above said accused Sukhchain Singh alias Chaina before exchanging the Indian currency into US Dollar and did not verify his antecedents.

So far as the question of grant of anticipatory bail to the petitioner is concerned, it is pertinent to observe that the Courts have been granted power to grant anticipatory bail to protect against motivated criminal litigation instituted at the instance of unscrupulous litigants animated by malice or political vendetta. Grant of anticipatory bail is an extra-ordinary remedy and is not, therefore, intended to be granted in every case. Number of factors including nature and gravity of the offences, quantum of sentence, likelihood of the accused absconding, intimidating or influencing the witnesses or tempering with the evidence or committing similar offences have also to be taken into consideration. Further, socio-economic offences constitute a class apart and need to be visited with different approach in matter of bail. Since socio-economic offences have deep rooted conspiracies affecting the moral fibre of society and causing irreparable harm, the same have to be viewed seriously.

In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty.

Keeping in view the facts and circumstances of the case, the fact that custodial interrogation of the petitioner is required for thorough

investigation of the crime committed, I am of the considered view that the petitioner does not deserve the concession of anticipatory bail.

In view of above discussion, the petition for grant of anticipatory bail to the petitioner is dismissed.

(ASHOK KUMAR VERMA)
JUDGE

September 23, 2020
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No