

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

CRM-M-34503-2020 (O&M)

Anupama Kochar & others ...Petitioners

Versus

State of Punjab & another ...Respondents

CRM-M-36900-2020 (O&M)

Ajit Singh Kochar & others ...Petitioners

Versus

State of Punjab ...Respondent

Date of Decision: 23.11.2020

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Ashok Kumar Arora, Advocate, for the petitioners
in CRM-M-34503-2020.

Mr. Akshay Bhan, Senior Advocate, with
Mr. Rohit Nagpal, Advocate, for the petitioners
in CRM-M-36900-2020.

Mr. Avtar Singh Sandhu, Addl. AG, Punjab.

Mr. J.S.Dhaliwal, Advocate, for the complainant.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose off the aforesaid two petitions i.e. CRM-M-34503-2020 filed on behalf of Anupama Kochar, Rajinder Singh Kochar & Jasmeet Singh Kochar as well as CRM-M-36900-2020 filed on behalf of Ajit Singh Kochar, Vikramjit Singh Kochar, Raj Rani & Paramjit Kaur seeking grant of anticipatory

bail in respect of a case registered vide FIR No.0138 dated 06.09.2020 at Police Station Sultanwind, Amritsar, under Sections 420, 120-B IPC.

2. It is the case of the prosecution that M/s Kochar Overseas Pvt. Ltd. had raised a loan from Punjab National Bank, wherein certain properties belonging to the company and also belonging individually to Ajit Singh Kochar were mortgaged with the Bank. It is further the case of the prosecution that petitioners in CRM-M-36900-2020 are the Directors, while the petitioners in CRM-M-34503-2020 are the guarantors. It is further the case of the prosecution that since the loan was declared as NPA, recovery proceedings were initiated before DRT wherein a decree for an amount of Rs.43 crores was passed in favour of the Bank. Thereafter, the matter was referred to the NCLT for recovery of the decretal amount, wherein Insolvency Resolution Professional (IRP) was appointed. Subsequent to the proceedings so initiated, Mr. Ashish Aggarwal, was appointed as Liquidator. It is the case of the prosecution that the accused, who are the directors of the company in question in connivance with the guarantors, in order to thwart the recovery proceedings and to create hurdles for the recovery of loan, leased out the mortgaged property to M/s Global Business Corporation which had in fact been mortgaged with the Bank.
3. Learned counsel representing the petitioners in CRM-M-34503-2020 has submitted that while petitioner No.1 Anupama Kochar was the gurantor, the other two petitioners, namely, Rajinder Singh

Kochar and Jasmeet Singh Kochar were earlier the Directors of M/s Kochar Overseas, but in fact had resigned in the year 2012. Learned counsel for the petitioners in this regard had drawn attention of this Court to Form-32 (Annexure P-2) according to which Rajinder Singh Kochar and Jasmeet Singh Kochar had resigned with effect from 19.09.2012.

4. Vide order dated 29.10.2020 passed in CRM-M-34503-2020, this Court had directed the State counsel to furnish specific information on the following aspects:

- “i. When was Form-32 (Annexure P-2) actually submitted and uploaded by petitioners No.2 and 3 on the website of the Ministry of Corporate Affairs?
- ii. The details of the fee, if any deposited at the time of submission of the aforesaid Form-32 and the mode and date of such payment.
- iii. When was the letter dated 29.10.2012 (Annexure P-3) received in the bank?
- iv. If the aforesaid letter dated 29.10.2012 was received in bank, then was it acted upon by the bank authorities?
- v. The particulars of the lease in question which is stated to have been executed and as to whether any such lease is a registered document?”

5. Today, learned State counsel has informed that a reply to the aforesaid queries have been sent on the WhatsApp group. He has also orally informed that upon verification, it had been found that the relevant Forms pertaining to resignation of the petitioners, namely, Rajinder Singh Kochar and Jasmeet Singh Kochar were actually uploaded on the website of the Ministry of Corporate

Affairs on 31.10.2012 and that the requisite fee was also deposited through online banking on the same day. If that be so, then the aforesaid two Directors, who had since resigned in 2012 cannot be saddled with any responsibility.

6. As regards the petitioner Anupama Kochar as well as the petitioners in CRM-M-36900-2020, the allegations are broadly to the effect that property which had been mortgaged with the Bank was subsequently leased out. However, it has been informed by Mr. Akshay Bhan, learned senior counsel that in fact the property in question i.e. a piece of land measuring 55 kanals 3 marlas; another piece of land which had been purchased vide Vasika No.2285 and also house measuring about 800 sq. yards situated at Lawrence road was taken over by the Bank. He further submitted that part of the property already stand sold off on account of recovery proceedings including house measuring 800 sq. yards situated at Lawrence road. It has also been informed that even the property which was stated to be leased out to M/s Global Business Corporation was with the Liquidator, who initially entered into a fresh lease agreement with M/s Global Business Corporation wherein the lease amount was revised from Rs.35,000/- to Rs.80,000/- per month and that subsequently since the lessee had vacated the premises, the vacant possession has been handed over to the Liquidator.
7. Learned State counsel has not disputed the aforesaid factual position. Learned State counsel upon instructions from SI Parabhdayal Singh has informed that pursuant to the interim

directions issued by this Court vide order dated 29.10.2020 in CRM-M-34503-2020 and order dated 10.11.2020 in CRM-M-36900-2020, Anupama Kochar, Raj Rani and Paramjit Kaur have already joined the investigation and are no longer required for any further investigation.

8. Having regard to the facts and circumstances of the case and keeping in view the fact that vacant possession of the property in question was presently with the Liquidator and that some part of the property already stands sold on account of recovery proceedings, this Court does not find it to be a case where custodial interrogation of the petitioners would be required. Both the petitions, as such, are accepted and the petitioners are ordered to be released on bail subject to their furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

(GURVINDER SINGH GILL)
JUDGE

23.11.2020
Vimal

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