

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37386-2022
Reserved on: 26.08.2022
Pronounced on: 05.09.2022

Lakhwinder Singh @ Babba ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. G.K. Mann, Sr. Advocate with
Mr. Gursewak Singh, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0037	09.12.2021	NRI, District Police Commissionerate Amritsar	419/420/465/467/468/471/ 120-B IPC 1860

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 16 of the bail petition, the accused declares that he has no criminal antecedents.
3. The complaint has been reproduced in para 2 of the petition and it reads as follows:

“ One application UID number 1698273 dated 26.11.2019 from Vinod Kumar Bawa son of Late Harbans Lal Bawa resident of House No. 1, 27 Feet road, Green Field, Majitha Road, Amritsar, now NRI residing in America, has given in the office of Hon'ble Additional Director General of Police, N.R.I. Wing, S.A.S. Nagar, which is as follows:- To, NRI Commissioner of Police, Sub:- An application to register FIR against Sunder Lal son of Sh. Girdhari Lal resident of Gali no.3 Namak Mandi, Amritsar presently residing at Jandiala Guru, Amritsar, Sheetal Singh s/o Heera Singh resident of Basrake Gillan, Amritsar mobile no. 9914595144 and 9478316924, Jaswinder Singh s/o Kulbir Singh resident of Village Suparwind, Majitha, Amritsar, Mobile No 8728024826 and Harpreet Singh alias Sonu s/o Hardev Singh resident of village Pithewad, Ajnala Mobile no. 7814718439 and 9814481295, Sir, it is submitted as under-1. That I am NRI and presently residing in America. 2. That I've one property

house no. (1244/4), 1284/4, 468-A, Kuchaa Fakir Khana, Bazaar Kathian Wala, near Golden Temple, Amritsar since birth and then I got married in 1969 in this house and we have been living here even after marriage with my wife. We have been paying the municipal taxes and the electricity bill for the aforesaid house since it was gifted to me by my father Late Harbans Lal Bawa who was earlier the owner of the said property since 1930's and in this regard even the entry in the municipal corporation has been given to the effect that earlier the Roshan Lal Gupta s/o Amir Chand Gupta was the owner of the property, who has further given the said property to my father Late Harbans Lal Bawa, and after the death of my father I am looking after the said property being the owner of the property. 3. I've given total property documents photo stat of the said property to Lakhwinder Masih alias Bubba who is a property dealer-sto village Chhina Adda Kukraan Wala Mobile number 9888628498 & 8872625402, and his partner Harish Kakkar r/o Jandiala Guru, mobile 9888220666 & 9915918303 to find "buyer for said property. 4. Lakhwinder Masih & Harish Kakkar conspired with Sheetal Singh s/o Heera Singh and Jaswinder Singh to create forged documents of said property They created fake documents in favor of Sundar Lal /o Girdhari Lal. 5. That now I came to know that one person namely Sundar Lal s/o Sh. Girdhari Lal who was not having any title over the property had made a false sale deed inconvenience with Setal Singh and Jaswinder Singh both of them has prepared a false sale deed and Setal Singh is the beneficiary out of the false sale deed is trying to take the illegal possession of the said house whereas the real facts is that the Sundar Lal has never been the owner of the property and he could not execute any sale deed regarding the aforesaid property. 6. That the sale deed which I came to know is totally false and fabricated documents which has been prepared by the all the accused person who conspired to execute this sale deed on 07/05/2018 executed by Sunder Lal in favor of Sheetal Singh and Jaswinder Singh which has been witnessed by Harpreet Singh. 7. Sheetal Singh, Jaswinder Singh has forcefully taken over said property and have their locks on this house. 8. That at the time of the execution of this false and fabricated sale deed all the accused person knew that the same is false and fabricated document and has been just prepared to do wrongful loss to me. 9. It is therefore, my humble request to file FIR against the aforesaid all person 10. My son Manish Kumar lives in Amritsar with his wife and kids. We are concerned about their well-being due to this dispute from parties involved. 11. I'm currently in Amritsar. My local phone number is 7740001801, 9780004156. Our humble request is to launch FIR in this matter and please help us in this matter since we have no other resource but come to you. Please help us. Regards Vinod Kumar Bawa s/o Sh. Late Harbans Lal Bawa U.S.A. Address 4494 East E Avenue Kalamazoo, MI 49004 U.S.A. MB 0012698308866."

4. Ld. Counsel for the petitioner contends that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. Ld. counsel representing the State opposes bail and seeks custodial interrogation.

REASONING:

6. A perusal of the complaint reveals that the complainant had handed over the photocopies of his property documents to the petitioner and his associate. He has named both as the main conspirators in selling the property through impersonation. The sly manner in which the petitioner transferred the property points out the dangerous trend of the revival of thuggee by revisiting the history. Thus, custodial interrogation is required to recover the money and find out the accused's modus operandi.

7. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

8. In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Hon'ble Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. PadamNarain Aggarwal (2008) 13 SCC 305].

9. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Hon'ble Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

10. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage.

11. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

05.09.2022
sonia arora

Whether speaking/reasoned:	Yes
Whether reportable:	No.