

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

CRM-M-47253-2022 (O&M)

Date of Decision: 17.10.2022

Kewal Krishan

... Petitioner

Versus

State of Punjab

... Respondents

CORAM:-HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Anmol Puri, Advocate for the petitioner

Mr.GS Sandhu, DAG, Punjab

Mr.GBS Dhillon, Advocate for complainant

...

CRM-38652-2022

This is an application for exemption from filing certified copies of Annexures P-1 to P-5. Application is allowed as prayed for.

CRM-M-47253-2022

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail in FIR No.189 dated 6.9.2022 under Sections 420, 467, 468, 471, 120-B of the IPC registered at Police Station Sarabha Nagar, District Ludhiana.

The case in hand is that complainant's grand father's name was Budh Ram Goyal and father's name is Darshan Kumar Goyal who died on 10.5.1995. Petitioner is his father's brother and Neena Goyal is his *chachi* and her husband's name was late Sushil Goyal and her father-in-law's name was late Budh Ram Goyal. Late Darshan Kumar Goyal has a bank account no.08240100008493 in UCO Bank which is joint account with Neena Goyal wife of late Sushil Kumar Goyal. Similarly, there is a bank account in the name of Darshan Kumar Goyal i.e. 0042010021710

with Oriental Bank of Commerce which is now merged with Punjab

National Bank. Whereas account no.50279859905 and 50279859895 of UTI Mutual Funds of shares of different companies. Similarly account nos.50279833805, 50279833762 and 50279833784 in the name of complainant's mother Madhu Goyal are shares of UTI Mutual Funds of various companies. Similarly, three more accounts were in the name of Madhu Bala i.e. 5027250714, 50244194135 and 5141730777 of UTI Mutual Funds of various companies shares and all the profits were deposited in the account no.00042010018230 of OBC which is now merged with Punjab National Bank. Lacs of rupees have been withdrawn by the petitioner and Neena Goyal by forging fake signatures by keeping the cheque book with them and the profits of the account of Madhu Bala were also withdrawn by the petitioner alongwith other co-accused in their account by forging fake signatures.

Learned counsel for the petitioner, *inter alia*, contends that present case has been lodged falsely against the petitioner. The subject matter involved in the FIR was also part of the civil suit filed by the complainant and his sister Sugandha and his mother Madhu Goyal and that the said suit titled Madhu Goyal & Ors. vs. Kewal Ksrishan Goyal was decided on 27.10.2005. The matter is purely of civil nature. But a civil dispute is tried to be given the colour of criminal wrong doing by the complainant. Learned counsel further submits that nothing is to be recovered from the petitioner and thus no custodial interrogation is required.

On the contrary, learned counsel for the State assisted by the learned counsel for the complainant submits that the allegations against the petitioner alongwith other co-accused are serious in nature as they have played fraud and cheated the complainant by withdrawing lacs of

amounts after forging fake signatures of the dead person. Thus, his custodial interrogation is necessary.

Having heard learned counsel for the parties, I am of the view that the petitioner has been specifically named in the FIR and there is specific role attributed to him. The allegations of cheating and fraud against the petitioner in connivance with other co-accused are writ large. The petitioner alongwith co-accused have forged signatures of the dead person and withdrew hefty amounts from the accounts. Investigation is still going on and, therefore, custodial interrogation of the petitioner is necessary for finding out the modus operandi of commission of offence and for recovery of the hefty amount. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in **State Vs. Anil Sharma, (1997) 7 SCC 187** held as under:-

“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 favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is 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 a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

In view of the discussion made above, the present petition being devoid of any merit is dismissed. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

(ASHOK KUMAR VERMA)
JUDGE

17.10.2022
MFK

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>