

**IN THE COURT OF AMIT THIND, ADDITIONAL SESSIONS
JUDGE, BATHINDA. (UID No.PB-0189)**

CNR No.PBBT01-005360-2021

CIS No.BA/1903/2021

Date of Order : 2.8.2021

FIR No. 157 of 24.7.2021

U/s 420, 465, 467, 468, 471,120-B
of IPC,

P.S. Canal colony, Bathinda.

Sarabjit Kaur wife of Sukhvinder Singh, resident of Gali no. 7 guru Nanak
Nagar, Multania Road, Bathinda.

....Applicant/Accused.

Versus

State of Punjab.

....Respondent.

Bail Application U/s 438 Cr.P.C.

Present : Sh. Pardeep Kumar, counsel for applicant/accused.
Sh. Devinder Goyal, Addl. PP for the State assisted by Sh.
Vishavdeep Singh, Advocate.

ORDER :

1. The instant bail application for grant of pre-arrest bail under section 438 of Cr.P.C., has been filed by the above said applicant, who has been named as accused in above referred FIR.

2. As per averments made by the accused/applicant, she has falsely been implicated in this case. It is submitted by counsel for the accused that power of attorney is not forged one as the signatures of the persons who gave the power of attorney are there. Counsel further submitted that Court can peruse the said signatures. It is further submitted that nothing is to be recovered from the petitioner and his custodial interrogation is not required. Hence prayed for grant of bail.

2. No formal reply was filed by Addl.P.P, but grant of bail was

opposed by Learned APP for State and counsel for the complainant. It is submitted that though the stamp papers were purchased in the year 2016, but the power of attorney was got executed in 2019. Prosecution is well within its right to go to the root of the matter to ascertain why after such a long period of time, said stamp papers was used. The use of stamp paper after three years is sufficient to conclude that there is something fishy. Hence prayed for dismissal of the bail application.

3. I have heard Learned counsel for the applicant/accused and Learned Addl. Public Prosecutor for the State/counsel for complainant and gone through the material on record.

4. ASI Gursahib Singh has suffered a statement in the Court that present case has been registered on the basis of application filed by complainant Daljit Kaur wife of Amandeep Singh and further vide orders of the Hon'ble High Court dated 03.03.2021 in writ petition No.CRM-M-9862-2021. In this case, the complainant was the owner of two truck trallas bearing No.PB-03AJ-8011 and PB-03Y-8703 and had entrusted both the aforesaid truck tralla to Mahinder Pal Singh co-accused for care and maintenance and that he will operate the aforesaid truck tralla and clear the pending loan on both the truck trallas. The complainant had also handed over the cheques. Mahinder Pal Singh in conspiracy with present petitioner Sarabjit Kaur and Sukhwinder Singh stopped the payment of the EMIs pertaining to the loan on the aforesaid truck trallas and started illegally operating the same. FIR No. 165/19 u/s 61 Excise Act PS Canal Colony was registered pertaining to recovery of illegally smuggled liquor on truck tralla No.PB-03AJ-8011. Thereafter, Sarabjit Kaur along with her co-accused got prepared false and forged power of attorney and also took

the aforesaid truck tralla on sapurdari from the court on the basis of aforesaid forged power of attorney. Thereafter, as the complainant initiated proceedings against the accused in the Hon'ble Court, Sapurdari order was cancelled and the aforesaid truck tralla was ordered to be entrusted to the complainant by the court. Thereafter, when the complainant went to take the possession of the aforesaid truck tralla, it was discovered that the engine and the spare parts of the truck tralla were changed and some parts/material were also missing. Thereafter, vide orders of the Hon'ble High Court dated 03.03.2021, the present case was registered against the petitioner and co-accused. The second truck tralla has also not been got recovered by the accused.

5. From the statement of IO and the facts of the FIR, it is clear that complainant had entrusted two truck trallas to the accused for care and maintenance and also some cheques, which were misused. It is not disputed that superdari order in favour of the present petitioner was passed by Court was cancelled and later on the truck tralla was ordered to be entrusted to the complainant by the Court. Police file also shows that prosecution has recorded the statement of stamp vendor that the said stamp paper was purchased on 20.8.2016 and present petitioner Sarabjit Kaur had taken the said blank stamp papers from him, which bears her signatures and that stamp paper was of Rs.250/-. Purchase of stamp paper in 2016 and its use in 2019 requires to be probed. Contention of the prosecution is that when the complainant went to take possession of said vehicle, it was discovered that Engine and spare parts had been changed and some parts/material was missing. This itself is a serious matter and the police needs to go into the root of the matter, for which custodial

interrogation of accused would be required for proper investigation of the case. The Hon`ble Apex Court in case, State represented by the **CBI Vs. Anil Sharma, reported in 1994(4) RCR (Criminal), 268** has observed as follows;

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect, who is well ensconced with a favourable order under section 438 of the Code. In a case like, this, effective interrogation of suspected persons is of tremendous advantage in disinterring many useful informations of and also material, which would have been concealed Success in such interrogations, would elude if the suspected persons 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 be reduced to a mere ritual.”

7. In view of the aforesaid discussion, the anticipatory bail application is, hereby, dismissed. Police record be returned forthwith and this file be consigned to the record room.

Pronounced in open Court.
Dated:2.8.2021.

(Amit Thind),
Addl. Sessions Judge,
Bathinda.
(UID No. PB-0189)

Manju, Stenographer

Present : Sh. Pardeep Kumar, counsel for applicant/accused.
Sh. Devinder Goyal, Addl. PP for the State assisted by Sh.
Vishavdeep Singh, Advocate.

Police record produced. Arguments heard. Vide my separate detailed order of even date, forming part of the record, this anticipatory bail application stands dismissed. Police record be returned forthwith and this file be consigned to the record room.

(Amit Thind),
Addl. Sessions Judge,
Bathinda. duty
(UID No. PB-0189)

Order dated: 2.8.2021
manju, Stenographer