IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-12558-2015

Date of decision: 24.07.2015

Sumitra Gosai

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

PRESENT: Mr. Namit Khurana, Advocate for the petitioner.

Mr. SS Pannu, DAG, Haryana.

Mr. GS Shahpuri, Advocate
for complainant-respondent No. 2.

<u>R.P. NAGRATH</u>, J.

Prayer in the instant petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in FIR No. 672 dated 29.10.2014 registered under Section 420 of the Indian Penal Code (IPC) at Police Station City Yamuna Nagar, District Yamuna Nagar.

2. When this case was listed on 23.04.2015, following order was passed:-

> *"It is inter alia contended that the whole case would be revealed from compromise Annexure P-3 which was entered with Poonam Sharma and that compromise was also signed by Soni Pal-complainant and the petitioner. It is further contended that the*

instant FIR was registered on the complaint made before the learned Judicial Magistrate Ist Class, Jagadhri in terms of Section 156(3) Cr.P.C.

In view of above circumstances, Soni Pal-complainant is impleaded as necessary party. Registry is directed to make necessary corrections in the memo of parties.

Notice of motion for 24.07.2015.

Mr. GC Shahpuri, Advocate who is present in Court, accepts notice on behalf of complainant-Soni Pal and filed power of attorney on his behalf in Court today and the same be taken on record.

Meanwhile, in the event of arrest of the petitioner, he shall be released on bail by the Arresting/Investigating Officer. The petitioner shall abide by the conditions as enshrined in Section 438 (2) Cr.P.C. "

3. On instructions from SI Subhash Chander, learned State counsel submits that the petitioner has joined the investigation on 10.06.2015.

4. However, learned counsel for complainant-respondent No. 2 vehemently opposed the prayer for grant of pre-arrest bail to petitioner mainly on the ground that complainant has been cheated of the huge amount of ₹ 7 lacs.

5. FIR was registered on the complaint filed by Soni Pal S/o Shish Pal, before the learned Judicial Magistrate Ist Class, Jagadhri, in terms of Section 156 (3) Cr.P.C. The version stated in the FIR was that in October, 2013, the complainant met the petitioner through one Ashok Kumar S/o Kashi Ram. The petitioner represented that she was having

good political connections and was also doing the business of finance in District Yamuna Nagar. It was further pretended that the petitioner who is a female has good connections abroad and has sent so many people abroad. The complainant expressed his willingness to settle in United States of America (USA) along with his family. The petitioner promised to send the complainant and his family abroad and demanded ₹ 17 lacs for the work. In February, 2014, the petitioner took the passport of complainant and also an amount ₹ 1 lac to start the process. Subsequent to that, the petitioner had been asking for more money and complainant also accompanied the petitioner twice to Delhi at some immigration office. The complainant transferred an amount of ₹ 7 lacs through RTGS in the account of petitioner on 07.03.2014. It was, thus, stated that the total amount received by the petitioner was ₹ 9 lacs. In the months of April, 2014 the petitioner returned ₹ 1 lac only to the petitioner.

6. I have heard learned counsel for the petitioner and learned State counsel assisted by learned counsel for complainant-respondent No. 2.

7. From the documents on record, it seems that the complainant tried to give a twist and different colour to the allegations though there seems to be a different kind of dispute between the parties.

8. Learned counsel for the petitioner referred to a panchayati compromise Annexure P-3, entered into between Poonam Sharma D/o Shaym Lal and the complainant on 09.05.2014. Learned counsel for the petitioner contends that the brother of Poonam Sharma aforesaid was involved in a murder case for which some talk of compromise was going

on. Poonam Sharma, aforesaid was the employee of complainant and the terms of compromise Annexure P-3 would suggest that Poonam Sharma pledged 14 tolas of gold with the complainant and received ₹ 6.5 lacs from him so that she could pay the said amount to aggrieved persons in the FIR for murder under Section 302 IPC. The dispute between Poonam Sharma and complainant went to Panchayat with regard to non-return of jewelry, amount of ₹ 6.5 lacs and three cheques.

9. Learned counsel for the petitioner and complainant-respondent No. 2 are *ad idem* that in the said dispute petitioner acted as mediator and an amount of ₹ 7 lacs was entrusted to her. This is how the said amount through RTGS was transferred from the account of complainant to the bank account of petitioner. Since, the FIR under Section 302 IPC against the brother of Poonam Sharma, aforesaid could not be quashed or compromise could not be finalized that a dispute between these persons took place. According to petitioner, the amount of ₹ 7 lacs has been returned to complainant but this contention is hotly contested by learned counsel for complainant-respondent No. 2. The learned counsel for complainant-respondent No. 2 submits that there is no documentary proof of the return of amount.

10. In compliance with terms of compromise the complainant-respondent No. 2 also furnished an affidavit dated 10.05.2014 (Annexure P-4) to the effect that he settled the matter with Poonam Sharma regarding dispute of money on the basis of compromise. In terms of said compromise, a cheque No. 002695 dated 20.07.2014 of the Central Bank of India, Yamuna Nagar was issued in the name of Poonam

Sharma by the complainant. It was stated that the said cheque was dishonoured and complaint under Section 138 of the Negotiable Instruments Act was also filed by Poonam Sharma against the complainant.

11. From the aforesaid discussion, it appears that complainant has not set up the version that petitioner misappropriated the amount of ₹ 7 lacs entrusted to her as a mediator but on a different version that petitioner was paid the money as a travel agent.

12. In view of the above and without expressing any opinion on merits of the case, the instant petition is allowed and the interim bail granted to the petitioner vide order dated 23.04.2015 is made absolute and the petitioner shall abide by the conditions as enshrined in Section 438 (2) Cr.P.C. The petitioner is directed to co-operate with the investigation and keep on joining the same as and when required.

July 24, 2015 **(R.P. NAGRATH)**
rishu **JUDGE**