

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-38674 of 2014

Date of Decision: 14.5.2015

Neelam

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Mr. Sunil Agnihotri, Advocate
for the petitioner(s).

Mr. Neeraj Yadav, Assistant Advocate
General, Punjab for the respondent.

Darshan Singh, J.

1. The present petition has been filed by the petitioner under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") for seeking anticipatory bail in case FIR No. 217 dated 7.10.2013 registered under Sections 419, 420 & 120-B of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") at Police Station City, Khanna, District Khanna.

2. As per the prosecution allegations, the petitioner and her sister Nancy entered into an agreement to sell with complainant-Kuldeep Kaur for the sale of a shop and received a sum of ₹ 2,60,000/-. In fact, they were not the owner of the said shop and it was owned by one Rajesh Chauhan, who has further sold the same. In this way, the petitioner has cheated the complainant.

3. Learned counsel for the petitioner pleaded that the petitioner has already joined the investigation and no recovery is to be effected

from her and, therefore, she deserves the concession of anticipatory bail.

4. On the Other hand, learned State counsel contended that the petitioner is not entitled for the concession of the anticipatory bail keeping in view her conduct. She remained absconding and joined the investigation only yesterday knowing fully well that the petition is fixed for hearing before this Court for today. He further contended that the money extorted from the complainant has not been returned. She has a tendency to abscond and was declared as a proclaimed person during the pendency of the investigation. So, the petitioner does not deserve the concession of anticipatory bail.

5. I have duly considered the aforesaid contentions.

6. As per the prosecution allegations, the petitioner along with her sister Nancy had executed an agreement to sell for the sale of a shop but infact they were not the owner of that shop and they have extorted a sum of ₹ 2,60,000/- from the complainant. The said money has not been refunded so far to the complainant.

7. The conduct of the accused is also very material in order to ascertain whether he/she deserves the extraordinary privilege of anticipatory bail or not. Learned State counsel has placed on record copy of the order dated 18.9.2014 passed by the Sub Divisional Judicial Magistrate, Khanna which shows that after publication of the proclamation, the petitioner was declared as proclaimed person/absconder. It shows that she has been absconding from the process of law. She was directed by this Court to join the investigation

vide order dated 25.11.2014 and the case was adjourned to 9.2.2015. On that day, it was informed that the petitioner has not joined the investigation. Keeping in view the fact that she is a lady, another opportunity was granted to her to join the investigation and the case was adjourned to 21.4.2015. But on that day also, learned State counsel has informed that she has not joined the investigation and was absconding. In a clever move, she appeared before the Investigating Officer only yesterday knowing fully well that the present petition is fixed today for hearing before this Court to join the investigation. So, the petitioner is playing hide & seek with the Investigating Agency. This conduct of the petitioner itself is sufficient to decline her the extraordinary privilege of the anticipatory bail.

8. Thus, in view of my aforesaid discussion, the petitioner has failed to make out an exceptional case for grant of extraordinary privilege of anticipatory bail. Consequently, the present petition has no merit and the same is hereby dismissed.

(Darshan Singh)
Judge

May 14, 2015

“DK”