

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc. No.M-36416 of 2015

Date of Decision: April 22, 2016

Chandni Sharma wife of Sarvesh SainiPetitioner

Versus

State of HaryanaRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Surender Deswal, Advocate for the petitioner.

Mr.Vivek Saini, Deputy Advocate General, Haryana.

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TEJINDER SINGH DHINDSA, J.

The present petition has been filed under Section 438 of the Code of Criminal Procedure seeking concession of anticipatory bail to the petitioner in case FIR No.382 dated 21.8.2015, under Sections 420, 406, 506, 342 of the Indian Penal Code, registered at Police Station Pehowa, District Kurukshetra.

2. Learned counsel for the parties have been heard.

3. Briefly, it may be noticed that the FIR came to be registered on the complaint of Sampuran Singh. Complainant asserted that he had paid a sum of ₹17 lacs to the accused persons including the present petitioner for sending his son and daughter-in-law abroad. Part of such amount i.e. ₹5.5 lacs was alleged to have been paid in cash to accused Sarvesh Saini, his wife Chandni Sharma (petitioner herein) and Sachin Saini in the

month of March 2015. Accusations, in a nut-shell, are that the complainant has been cheated and such amount of ₹17 lacs has been mis-appropriated.

4. The entire case set up on behalf of the present petitioner is that she has been falsely implicated. It has been contended that there has been a marital dispute between the petitioner and co-accused Sarvesh Saini, her husband since the year 2012 and on account of which they have been staying separately ever since. Learned counsel appearing for the petitioner would also refer to a copy of the petition filed by the petitioner for dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act, 1955 on the ground of cruelty. It is submitted that even a petition was filed under Section 125 of the Code of Criminal Procedure by the petitioner seeking maintenance. It has also been contended that during the pendency of the earlier divorce petition, parties preferred a divorce petition under Section 13(b) of the Hindu Marriage Act seeking dissolution of marriage by mutual consent. On the basis of such submissions, it is argued that the petitioner had no concern or dealings with the complainant and she sought to be roped in just to pressurize Sarvesh Saini, co-accused into some kind of settlement.

5. Learned State counsel has, however, vehemently opposed the present petition.

6. This Court has been informed that during the course of investigation, call detail records pertaining to the year 2015 have been collected and it would clearly show that the present

petitioner was in constant touch with her husband and co-accused, namely, Sarvesh Saini. Learned State counsel further submits that during the course of investigation, it has come forth that the present petitioner has leased out premises in Karol Bagh, New Delhi for running a Hotel by the name of Swagat Palace and the lease document reflects that a monthly rent of ₹2,40,000/- is being paid by her. Such factual aspect has not been denied by learned counsel appearing for the petitioner. It may also be pertinent to take note that the investigating agency has laid its hands on visiting cards of co-accused Sarvesh Saini and Sachin Saini showing their work place to be Hotel Swagat Palace.

7. On a specific query having been put, it has been conceded by learned counsel for the petitioner that even the petition seeking divorce by way of mutual consent was instituted in October 2015 i.e. after the registration of the FIR.

8. The stand taken on behalf of the petitioner that she has severed ties from her husband Savesh Saini does not inspire confidence. The submissions made on behalf of the State leave an impression that the parties are still in a marital relationship. The contention raised by learned State counsel while opposing the prayer of the petitioner seeking anticipatory bail that the divorce petition is nothing but a sham and to hoodwink the investigating agency cannot be said to be totally without merit.

9. Cheating innocent persons on the allurements of sending them/close relatives abroad is a serious allegation. Out of the total sum of ₹17 lacs, ₹11.50 lacs are stated to have been paid by the complainant by way of account payee cheques

deposited in the account of accused Sarvesh Saini i.e. husband of the petitioner. Sarvesh Saini till date has evaded the process of law and stated to be on the run.

10. Under such circumstances and for a deep and fair probe in the matter, custodial interrogation of the petitioner may well be warranted.

11. This Court is not inclined to extend in favour of the petitioner the concession of pre-arrest bail.

12. Petition dismissed.

April 22, 2016

SRM

**(TEJINDER SINGH DHINDSA)
JUDGE**