

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

CRM-M-36279 of 2017.
Decided on:-27.09.2017.

Pooja.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Preetinder Singh Ahluwalia, Advocate
for the petitioner.

HARI PAL VERMA, J.(ORAL)

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case bearing FIR No.255 dated 04.09.2017 under Sections 406 and 420 IPC registered at Police Station Tripri, District Patiala.

The FIR in question was registered at the behest of complainant Radha Rani alleging therein that the complainant and other persons have jointly started some committee in order to fulfill their financial needs. One committee of Rs.3 lakhs has 30 members, the other committee of Rs.2,24,000/- has 28 members and the third committee of Rs.1,02,000/- has 17 members. All the accused as named in the FIR and the petitioner are members of the committees. Accused Sanjay Kumar is Head Constable in Punjab Police, who is otherwise married in the same Mohalla in which the

complainant is residing. The complainant knows accused Sanjay Kumar for the last many years, whereas the other accused are near relatives of Sanjay Kumar. Accused Prem Lata is sister of accused Sanjay Kumar, whereas accused Pooja, petitioner herein, is a real niece (Bhanji) of accused Sanjay Kumar and her husband Vinod Kumar is a real Bhanji Jawai of accused Sanjay Kumar. The accused have picked up all the committees and at the time of taking these committees, accused Sanjay Kumar had assured that he himself is responsible for the committee of his sister Prem Lata, Bhanji Pooja and Bhanji Jawai Vinod Kumar. The accused have picked up committees of around Rs.70 lakhs and thereafter, they have stopped depositing the installments of the committee and, rather, stopped participating in the committees. Thus, the accused are not making any payment in the committees.

When the complainant along with other victimized persons started demanding money from the accused persons, accused Prem Lata had called the complainant and other victims to her house, where some hidden Gundas (anti-social elements) attacked on the complainant and other victims causing injuries to them. The matter was informed to the police of Police Station Urban Estate, but accused Prem Lata, Pooja Rani had approached the police officers and accused Sanjay Kumar had openly threatened that they (complainant and other persons) cannot harm the accused in any manner. Rather, accused Prem Lata had given false complaints against the complainant and other victims so that they may stop demanding money from

the accused. In this manner, the accused persons have committed fraud with the complainant and other victims and have caused financial loss to them.

Learned counsel for the petitioner has argued that no offence of cheating or misappropriation is made out against the petitioner as non-payment of installments would not lead to criminal liability. The allegation that the petitioner had taken Rs.5,82,834/-, which was the money of the committee and not paying the installments, is wrong. The petitioner is being made the scapegoat as the receipts allegedly been prepared by the complainant party would reveal that there is tampering in the receipts and the same were never signed by the petitioner, rather, the same were signed by her husband Vinod Kumar, who had unfortunately died on 17.01.2016. Even otherwise, the dispute is of civil nature and no criminal liability can be fastened upon the petitioner. In support of his contention, learned counsel has relied upon the judgment of this Court in ***Ghansham Dass Versus State of Haryana 1993(1) RCR (Criminal) 34.***

I have heard learned counsel for the petitioner.

At the stage of considering the petition for anticipatory bail, the Court is required to look into the allegations made by the prosecution. As per the prosecution version, accused, namely, Sanjay Kumar, Prem Lata and Pooja, petitioner herein, are closely related to each other. The accused have picked up the committees at the initial stage and a huge amount is taken by them. But thereafter, the accused have not only stopped attending the committees, rather, they stopped paying the installments as well. The police

has thoroughly enquired into the matter and accordingly, has registered the present case. In this manner, the accused including the petitioner have defrauded the other members of the committee including the complainant.

There are specific allegations against the petitioner in the FIR. The plea of learned counsel for the petitioner that the receipts were never signed by the petitioner and there is a tampering in the said receipts, cannot be accepted at this stage as the matter is being investigated by the police. Interestingly, the petitioner has admitted the signatures of her husband Vinod Kumar on the receipts, but she has denied her signatures on the same. However, the fact remains that the petitioner has enjoyed the money, even if it is presumed that her husband has taken money and has signed the receipts.

The plea of the petitioner that only the estate of the husband of the petitioner is liable, cannot be accepted more particularly when innocent people have been cheated by the accused. Similarly, the law laid down by this Court in *Ghansham Dass' case (supra)* has no applicability in the facts and circumstances of present case, as in that case, the accused had stopped disbursing the amount to the complainant because some other members had not made payments of the committees. However, in the present case, there are specific allegations against the accused including the petitioner, who are closely related to each other, that they have committed fraud with the complainant and other victims by picking up the committees of around Rs.70 lakhs. Thereafter, these members not only stopped attending the committee, but also did not deposit the money towards their installments.

Therefore, this Court does not find any merit in the present petition for anticipatory bail and the same is, accordingly, dismissed.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

September 27, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No