$~4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ BAIL APPLN. 1646/2017

MEENA RANI ..... Petitioner

Through: Mr.Ravindra Narayan, Advocate

versus

STATE OF NCT OF DELHI ..... Respondent

Through: Mr.Kewal Singh Ahuja, APP for the State with SI Ratan Singh, PS Dwarka North

Mr.B.Anand, Advocate for the Complainant

CORAM:
HON'BLE MS. JUSTICE PRATIBHA RANI

<u>O R D E R</u>

% **28.08.2017**

1. The petitioner has filed this application under Section 438 Cr.P.C. praying for grant of anticipatory bail in case FIR No.16/2017, under Section 420/34 IPC and Section 4 of Prizes Chits & Money Circulation Schemes (Banning) Act, PS Dwarka North.

2. As per the averments made in the application, the petitioner is a lady and has a son who is studying in X standard. A monthly committee was being run earlier by one Shakuntala Dahiya who was also running a Beauty Parlour. The petitioner was also lured to become member of the said committee. When she started investing money in the committees being run by other ladies, she was made organizer of the committee in partnership with Shakuntala Dahiya on the allurement that she would get half of the second

chit and as all of them knew each other, there would not be any default. However, after about six months, some of those members of the committee named in para 9 and 10 of the application left the committee/stopped paying monthly instalments and the committee ran into bad weather but she had been paying the amount after taking loan on high interest. Her husband is a government servant and there is no chance of her fleeing from justice.

3. On behalf of petitioner, Mr. Ravindra Narayan, Advocate has submitted that the entire complaint, which formed basis of registration of FIR, is false as the complainant was never part of the committee which was being run by the ladies and for the ladies. The lady members of the committee have now involved their male family members. It has also been contended that the complainant has no documentary proof that he had paid more than ₹30 lakh to her to buy a flat nor any agreement for the sale of the flat was ever executed between the parties payment of which was to be made out of monthly committee amount. It being a false case, the petitioner may be granted anticipatory bail. She is ready and willing to join investigation.

4. On behalf of the State prayer for release on anticipatory bail has been strongly opposed on the ground that not only the complainant has been cheated of ₹30 lakh on the pretext that out of the monthly committees, he could arrange the necessary funds to buy a flat but even other persons have been cheated whose details are noted by the learned ASJ in the order dated 9th August, 2017 whereby the application moved by the present petitioner for release on the anticipatory bail has been dismissed.

5. Learned APP for the State has submitted that the complainant has placed on record his Bank Statement and Income Tax Return Acknowledgment for the years 2015-2016 and 2016-2017 to show his

paying capacity and withdrawal from his account.

6. Learned ASJ has noted in the order dated 9th August, 2017 that in addition to the amount of ₹30 lakh allegedly paid by the complainant, there are other victims, details of which have been noted as under:

S.No.	Name	Amount
1.	Suman	₹10,97,301/-
2.	Veena	₹2,50,000/-
3.	Jaishree	18,73,500/-
4.	Manju Meena	13,50,000/-

7. As per the status report, the complaints of these four victims are also under investigation, under the same FIR i.e. FIR No.0016/2017, under Section 420/34 IPC, PS Dwarka North lodged by Yogesh Kumar.

8. Learned ASJ has refused the prayer of the petitioner for her release on anticipatory bail interalia for the reasons recorded on page 6 and 7 of the order dated 9th August, 2017, which are extracted hereunder:

> *"xxxxxxxxxxxx*
>
> *It may be noted that an amount of ₹45,000/- was deposited in the account of Smt.Meena Rai, the present applicant, by the complainant and ₹42,000/- was deposited in the account of Mayur Soni, the alleged co-accused, agent of the husband of the applicant/accused who is still absconding. Apart from this the other complainants have also alleged to have given hefty amount to the tune of ₹45 lacs and role of the accused qua these complainants is still under investigation. The contentions of the IO is that the custodial interrogation of the petitioner is very much necessary to now the details of documents allegedly prepared by accused persons in pursuance of the commission of offence of cheating.*
>
> *The allegations of the prosecution is that the*

accused/applicant along with the co accused including her husband has cheated the complainant in the present FIR as well as the complainant by posing herself as carrying on a business of Real Estates in the name of present applicant under the grab of Monthly Instalment Scheme for the flats and, therefore, the applicant alongwith the co-accused persons have cheated all the complainants.

In the facts and circumstances, having regard to the nature of allegations against the applicant including the gravity and seriousness of the offences levied against the applicant as well as to the fact, the custodial interrogation is very much necessary for further investigation of the present case. I am of the opinion that the applicant is not entitled to grant of anticipatory bail. The anticipatory bail application is ***dismissed.****"*

9. No doubt the complainant has not placed on record any documents to show that the amount was paid by him under some written agreement to purchase the property, but at the same time transactions with the complainant in cash/kind are subject matter of investigation by the State.

8. In the case reported as ***Adri Dharan Das Vs. State of West Bengal*** 2005 III AD (SC) 73, the Apex Court has laid down the guidelines for release on anticipatory bail and in para 19 held as under :-

"19. Ordinarily, arrest is a part of the process of investigation intended to secure several purposes. The accused may have to be questioned in detail regarding various facets of motive, preparation, commission and aftermath of the crime and the connection of other persons, if any, in the crime. There may be circumstances in which the accused may provide information leading to discovery of material facts. It may be necessary to curtail his freedom in order to enable the investigation to proceed without hindrance and to protect witnesses and persons connected with the victim of the crime, to prevent his dis-appearance to maintain law and order in the locality. For these or other reasons, arrest may become inevitable part of the process of

investigation. The legality of the proposed arrest cannot be gone into in an application under Section 438 of the Code. The role of the investigator is well-defined and the jurisdictional scope of interference by the Court in the process of investigation is limited. The court ordinarily will not interfere with the investigation of a crime or with the arrest of accused in a cognizable offence. An interim order restraining arrest, if passed while dealing with an application under Section 438 of the Code will amount to interfere in the investigation, which cannot, at any rate, be done under Section 438 of the Code."

8. Taking into consideration the nature of the allegations against the petitioner and the submissions made by learned APP for the State that custodial interrogation is required in this case, the prayer of the petitioner for her release on anticipatory bail is declined.

9. The application is dismissed.

PRATIBHA RANI, J.

AUGUST 28, 2017

'hkaur'