

S.No.103

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

CRM-M-41053 of 2018 (O&M)

Date of Decision:04.10.2018

Gogi Kaur Petitioner

Vs.

State of Punjab Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Naveen Sharma, Advocate
 for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 438 of Cr.P.C for grant of anticipatory bail in case FIR No.274 dated 04.07.2018 registered under Section 420 IPC at Police Station Barnala.

The allegations in the petition are that the present petitioner was customer of the ICICI Bank, Urban Estate Branch, Phase II, Patiala, and therefore, she used to visit the Branch very often. The complainant was working at the said Branch. During the course of one such visit, the petitioner met the complainant on 29.06.2016 and started boasting of her links with the highly placed officers in the State Bank of Patiala claiming that she herself was serving in the State Bank of Patiala (Now State Bank of India). By increasing acquaintance with the complainant, the present petitioner started telling to the complainant that she had got arranged job for several candidates in the State Bank of India (the successor Bank of State Bank of Patiala). It was further represented by the petitioner that for such

kind of recruitment; as internal staff, the exam is taken separately and after a candidate is declared passed, then senior officers issue an appointment letter directly to the candidate. Therefore, the petitioner could get the complainant recruited through that shortcut process. Thereafter, the petitioner had assured the job to the complainant in lieu of Rs.3 lakhs. The deal was finalised for Rs.3 lakhs. Thereafter, the petitioner got one form filled up from the complainant and also got signatures for taking internal exam of the above said Bank on 04.08.2017. Thereafter, the complainant was taken to Tehsil Complex at Rajpura, where the State Bank of India Branch was situated. At Rajpura, by talking to the petitioner, while standing outside the Bank premises, a question paper was handed over to the complainant and she was asked to solve the same. After solving the same, the answer-sheet was handed over to the present petitioner. This step of the petitioner led to further faith of the complainant in the present petitioner. Therefore, the petitioner demanded Rs.3 lakhs from the complainant. The petitioner visited the complainant at Barnala on 04.08.2017 itself and she obtained Rs.1 lakh from the complainant; as part payment. The petitioner again told the complainant on 18.08.2017 that the appointment letter has to be given to her at Delhi, therefore, she had taken the complainant to Delhi on 18.08.2017; along with the father of the complainant, in one Swift Desire Car; bearing registration No.PB-11-BR-0186. There the complainant was taken to State Bank of India, Azadpur Mandi Branch; and signatures of the complainant were obtained in register regarding issuance of appointment letter to her. Thereafter, the appointment letter No.HRD/RCT/TEP/AMPT/610612/Aug.2017 dated 18.08.2017 was handed

over to the complainant; showing her appointment as Probationary Officer. This appointment letter was issued on the letter-pad of State Bank of India. Along with this letter, a mark-sheet and roll number of the paper of the complainant solved by her earlier were also given; and she was asked to join at State Bank of India, Model Town Branch, Patiala on 29.09.2017. At this stage, Rs.2 lakhs were also received from the complainant. Feeling elated on getting job in State Bank of India, the complainant resigned her job from the ICICI Bank; after depositing the notice period salary with that Bank. Resultantly, the complainant was relieved from that Bank on 25.09.2017. When the complainant was to go to join at State Bank of India, Patiala Branch, as per the letter got issued to her through the present petitioner; then the petitioner played another trick with the complainant. The petitioner told the complainant that she will have to wait for sometime because due to internal reasons of the Bank, another letter of appointment will be issued to the complainant within few days and that letter will be sent to the complainant through post. It is further alleged by the complainant that since then, the petitioner has been making excuses. When the complainant and her family put more pressure on the petitioner then she proclaimed her real motive and disclosed that the complainant had not been appointed anywhere. Hence, the complainant found herself cheated at the hands of the present petitioner and accordingly, the complaint was made and the FIR was got lodged by the complainant. Along with the complaint, the complainant has also submitted the alleged fabricated appointment letter and the mark-sheet of the exam, which the complainant had purportedly taken.

While arguing the case, learned counsel for the petitioner has

submitted that, in fact, the amount of Rs.3 lakhs was taken by petitioner as a friendly loan. Out of this amount, Rs.2 lakhs even stand returned to one of the relatives of the complainant as per the instructions of the father of the complainant. Counsel further submits that the petitioner has subsequently returned even Rs.1 lakh. Therefore, there is nothing outstanding against the petitioner. It is further contended by counsel for the petitioner that since the case pertains to the documentary evidence, therefore, the custodial interrogation of the petitioner is not required. To support his contention, counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in **2008(4) R.C.R. (Criminal) 897 – Parvinderjit Singh and another v. State (U.T. Chandigarh) and Another**, and one more judgment of this Court rendered in **2010(1) R.C.R. (Criminal) 318 – Naresh Kumar v. State of Punjab**. In the end, counsel for the petitioner has contended that the allegations against the petitioner are totally fabricated and false.

Having heard learned counsel for the petitioner and perusing the file, this Court does not find itself in agreement with the argument of counsel for the petitioner. The meticulous details given in the FIR qua the participation of the petitioner in the transaction reflect adequately regarding the alleged complicity of the present petition in the entire process. The complainant has even produced before the Police the alleged fake letter, got issued by the petitioner in collusion with her accomplices. The petitioner is alleged to have accompanied the complainant to specified places through specified mode of transport and the involvement of the present petitioner in the said crime is candidly stated by the complainant. In view of this, it

cannot be said that the petitioner's involvement cannot be inferred even prima-facie.

After case is registered against an accused, the normal procedure prescribed in Cr.P.C is that the police can arrest the accused even without warrant. However, to save the prima-facie innocent persons from harassment and humiliation of arrest an extra-ordinary power is conferred upon Court by Section 438 of Cr.P.C to prevent the police from arresting the accused. Therefore, needless to say that while considering the scope of Section 438 of Cr.P.C, the main aspect to be taken into consideration is whether it would be justified to preclude the Police from conducting the full fledged investigation into the case by taking the accused in custody. The merits of the case, which the accused might be advancing before the Court; is relevant only for the purpose of assessing the scope of the investigation by the Police. Beyond that, the merits of the case are only the defence of the accused. In the facts and circumstances of the present case, this Court does not find it appropriate to scuttle the investigation by the Police; by harnessing the accused with the protection of the Court order.

It is well settled law, as held by the Hon'ble Supreme Court, that the interrogation of an accused by the Police; when he is protected by the Court order; is qualitatively and quantitatively different than the interrogation; when the accused does not have the sense of protection of the Court order. In the present case, the stated facts and circumstances are so intricately woven that it would not be possible for the Police to decipher the cobweb created by the petitioner and her accomplices; if the petitioner is granted protection against her arrest. Resultantly, this Court does not find

any extra-ordinary and extenuating circumstances, favouring grant of anticipatory bail to the petitioner; by exercising extra-ordinary powers under Section 438 of Cr.P.C.

Dismissed.

October 04, 2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No