

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-21598-2019

Date of Decision: May 13, 2019

Gurmeet Kaur @ Sukhi @ Sukhpreet Kaur

... Petitioner

Versus

State of Punjab.

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Shivraj Angi, Advocate,
for the petitioner.

Rajbir Sehrawat, J. (Oral)

This is a petition seeking anticipatory bail to the petitioner in case FIR No. 46, dated 27.03.2019, under Sections 420, 384, 506, 120-B IPC, registered at Police Station City I, Abohar, District Fazilka.

The FIR in the present case came into being on the statement of one Inderjit son of Ramesh Chander, resident of Village Gomla, District Mahendergarh, in which he has stated that he was young person of aged about 27 years, but was handicapped because of childhood polio problem. Therefore, he was not able to get married. One Ram Singh was doing the work of installation of Drip Irrigation System. The family of the complainant had also got installed one drip irrigation system from the said person. During that process, the said person Ram Singh told the petitioner that he can get married. However, he will have to pay some money. Thereafter, the petitioner was referred to one Rani and her husband Pala Singh, who struck a deal for getting the complainant married, for an amount

of Rs. 2 lakhs. Out of that, an amount of Rs. 1,70,000/- was taken by the said persons and then one girl named Shanti Devi was put up for getting married to the complainant. In that marriage, one boy Raju @ Sonu acted as a brother of the said Shanti Devi and the present petitioner acted as real mother of the said girl. Marriage was performed. However, after staying with the complainant from 17.12.2018 till 26.12.2018, the said girl left the house of the complainant for never returning back. When complainant insisted upon her returning back, then she threatened him that she will involve him in a case. Thereafter, the complainant contacted the above said Rani and Pala Singh. They openly proclaimed that they were a gang of persons. They intended to cheat the complainant. They had done their job and that the complainant could do whatever he could. With these allegations, the present FIR came into being in the present case.

Arguing case for the petitioner, learned counsel for the petitioner has submitted that the matter has been reported to police after three months. It is further submitted that Ram Singh is not even arrayed as an accused. Even the main accused Rani and Pala Singh, as well as Sonu, have been granted regular bail by the Court below. Still further, it is submitted that nothing is to be recovered from the petitioner. There is no allegation that the petitioner received the amount extracted from the complainant. It is also submitted that petitioner being a lady deserves to be granted concession of anticipatory bail.

However, having heard learned counsel for the petitioner and perused the file, this Court does not find any substance in the argument of the learned counsel for the petitioner.

Of course, the accused as a citizen also has a right to life and

liberty; as guaranteed by the Constitution of India. However, this right can very well be curtailed in accordance with the procedure established by law. In case of criminal investigation, the normal procedure prescribed for curtailing the right to life and liberty, as prescribed under Cr.P.C; is that the Investigating Officer can arrest the accused even without warrant. Therefore, to ensure that an innocent person is not unduly harassed by the Investigating Agency, an extra-ordinary power has been conferred upon the Courts under Section 438 Cr.P.C. However, this power is so extra-ordinary that it is not even available in some part of the country qua all the offences and under some special statutes qua some specified offences, this power is not available even throughout the country. Hence, this power has to be exercised by the Courts with due circumspection. This power can be exercised by the Courts only when the facts and circumstances of the case lead, predominantly, towards the ex-facie innocence of the accused, coupled with the fact that the investigation of the case would not be unduly hampered by grant of protection to the accused.

Coming into the facts of the present case, this Court does not find any force in the arguments of the learned counsel for the petitioner. The fact that the matter is reported to the police after about three months is totally insignificant; because it has come in the FIR itself that the complainant had been requested the accused to return his money. However, they had ultimately refused. There is no force in the argument that the main person Ram Singh has not been arrayed as an accused. Even as per the story of the complainant, Ram Singh is the person who only is alleged to have referred the complainant to the main accused, who subsequently charge money from the complainant. In this situation, no fault can be found, prima

facie, if the said Ram Singh is not arrayed as an accused in this case. The argument of the learned counsel for the petitioner that petitioner has not received any money and that nothing is to be recovered from her is also without any substance. The fact remains that the complainant has been made to pay the amount for an act; in which the petitioner is, admittedly, a participant. She has done positive and overact in the process of the same transaction for which the money is alleged to have been paid. Therefore, on the face of it, this cannot even be accepted that the petitioner has not received any money. Otherwise also, since the petitioner is stated to have acted as real mother of the girl, this Court does not find anything, to show, *ex facie*, innocence of the petitioner vis-a-vis the allegation levelled against the present petitioner. Otherwise also, the story of the complainant can be unearthed by the police only after thorough investigation, which is possible only when the petitioner is taken into custody. Even the other co-accused of the petitioner have been granted only the regular bail. There is no ground to treat the petitioner at a footing different than the other co-accused.

In view of the above, finding no merit in the present case, the same is dismissed.

However, it is clarified that nothing said above, would be taken as an expression on merits of the case for any purpose whatsoever.

May 13, 2019
vkd

(Rajbir Sehrawat)
Judge

Whether reasoned / speaking : Yes

Whether reportable : No