

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-24233-2019 (O&M)
Date of Decision:-11.7.2019

Kamaljit Kaur ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. G.K. Hundal, Advocate for the petitioner.

Ms. Amarjit Kaur Khurana, Sr. DAG, Punjab.

GURVINDER SINGH GILL, J.(Oral)

The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.0199 dated 28.9.2017 registered at Police Station City Phagwara, District Kapurthala under Sections 420 and 406 of Indian Penal Code, 1860.

The FIR was lodged at the instance of Deepak Kumar, wherein it has been alleged that Kamal @ Kambi son of Sohan Lal alongwith his wife Kamaljit Kaur (petitioner) came to his house and represented that they would send the complainant to 'Denmark' for which an amount of ₹5 lacs would have to be paid. Upon the said representation, the complainant gave an amount of ₹1.70 lacs alongwith his passport to the accused Kamal @ Kambi and his wife Kamaljit Kaur, but he was neither sent abroad nor the aforesaid amount was returned to him.

The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that infact she has been living separately from her husband and that she had infact parted ways and had obtained a divorce. It has further been submitted that the petitioner has been residing separately from her husband since the year 2011. The learned counsel, in this context, has referred to a copy of certificate/writing dated 4.12.2018 (Annexure P-2) wherein the Gram Panchayat, Village Samrai, Tehsil Phillaur, District Jalandhar and Sarpanch, Gram Panchayat, Samrai, Jalandhar, Tehsil Phillaur have certified that the petitioner had divorced her husband in the year 2011 and that they had got divorce from a Court at Cyprus. It has further been stated therein that Kamaljit Kaur is a lady of good moral character and is raising her children in poverty by doing hard work in the village and that she has been residing separately from her husband since the year 2011.

Opposing the petition, the learned State counsel has informed that there is no formal dissolution of marriage between the parties by any Court of Law in India and that upon inquiry it had surfaced that the petitioner had also withdrawn some amount from the savings bank account of her husband on 13.4.2017 indicating that the alleged contention of dissolution of marriage is false. The learned State counsel has also referred to the police file, wherein there is another resolution of the year 2019, wherein also the Panchayat had certified that the petitioner's husband is not residing in the village since the last two years and that the petitioner is being residing on her own alongwith her children.

Having considered rival submissions addressed before this Court and without commenting anything on the merits of the case and while

bearing in mind that the petitioner is a lady and that it would certainly be debatable as to whether she indeed had an active role in the alleged cheating of the complainant or as to whether it was only her husband who had duped the complainant, the petition is accepted. In the event of arrest, the petitioner be released on bail subject to her furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

The petition stands accepted accordingly.

11.7.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No