

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101)

CRM-M-1482 of 2020 (O&M)
Date of Decision: 26.11.2020

Nazira Begum

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Yashpal Thakur, Advocate, for the petitioner.
Ms. Samina Dhir, DAG, Punjab
Mr. Ashok Giri, Advocate, for the complainant.

Amol Rattan Singh, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of anticipatory bail, upon FIR no.363, dated 25.12.2019, having been registered at Police Station Sadar Dhuri, District Sangrur, alleging therein the commission of offences punishable under Sections 420 and 120-B of the IPC. The petition is hanging fire since January 2020, with no interim order passed protecting the petitioner at any stage.

On 04.09.2020, the following order had been passed reproducing the order passed a one day earlier:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

Yesterday, i.e. on 3.9.2020, the following order had been passed by this court:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioner seeks the concession of 'pre-arrest bail' upon FIR No. 363 having been registered against him at Police Station Sadar Dhuri, District Sangrur, on 25.12.2019, alleging therein the commission of offences punishable under Section 420 read with Section 120-B of the IPC.

Learned counsel for the petitioner submits that the petitioner has never been paid a single penny by the complainant, with the entire allegation of Rs. 5,00,000/- having been paid, being so paid to co-accused Sukhdev Singh by way of bank transactions.

However, learned counsel for the State points to the fact that after 30.01.2020, when learned counsel for the petitioner took time to take instructions as to whether there is any other criminal case registered against the petitioner or not, he has always been seeking adjournments on every date of hearing till today.

Learned counsel for the petitioner however submits that though the petitioner does not deny the fact that there is another criminal case registered against her, however, it was only in the context of the same “transactions”, in which it was again Sukhdev Singh who took the money and in fact the petitioner was helping the complainant to try and trace Sukhdev Singh in Rajasthan, which is why time had been sought by him on every occasion.

Today, counsel for the complainant is not present, possibly because it is well past court time.

Consequently, adjourned to 04.09.2020.

To be shown in the urgent motion list.”

Today, Mr.Ashok Giri, learned counsel for the complainant, is present and submits that as per his instructions, the petitioner did not take the complainant anywhere to try and trace out the aforesaid Sukhdev Singh/Sukhdev Lal.

Mr.Joginder Pal Ratra, learned DAG, Punjab, submits that the petitioner is not entitled to the concession of anticipatory bail in view of the fact that another FIR against her at the instance of one Sarbar Khan was recorded six months after the present FIR, with the same allegations made, to the effect that she lured the complainant therein to part with a large sum of money on the promise of obtaining a job for him in the Indian Railways.

The said person to whom the money was transferred in that case also is stated to be one Sukhdev Singh/Sukhdev Lal.

At this stage, learned counsel for the petitioner submits that the petitioner is even willing to give the address as is available with her of the aforesaid Sukhdev Singh/Sukhdev Lal, who actually received all the money and the petitioner having no money to even return to the complainant.

That being so, learned counsel for the petitioner is directed to immediately forward the address of the aforesaid Sukhdev Singh/Sukhdev Lal as is available with the petitioner to learned State counsel, who would then obviously pass it on to the investigating officer for him to go to that address and take action as may be warranted against Sukhdev Singh/Sukhdev Lal.

Adjourned to 10.9.2020.

It is made clear that at this stage there is no interim order operating in favour of the petitioner”

Thereafter, on 10.09.2020, with the counsel for the petitioner not having appeared, learned State counsel appearing at that stage had stated on instructions that the petitioner had supplied the addressed of her co-accused Sukhdev Singh in Suratgarh (Rajasthan), but upon visiting that place, the police did not find him there.

Thereafter again on 18.11.2020, when counsel for the petitioner did not come present possibly because it was past court time when the turn of the case came up, the matter was adjourned till today, with it made clear that if none appeared for the petitioner today also, the petition would stand dismissed.

Today, after arguing for some time, learned counsel for the petitioner wishes to withdraw this petition, but submits that as a matter of fact, the police is protecting Sukhdev Singh and therefore now if they arrest the petitioner and Sukhdev Singh is not arrested, the petitioner would keep languishing in jail, with Sukhdev Singh possibly declared to be a proclaimed offender.

He therefore submits that once the petitioner surrenders and files any petition under the provisions of Section 439 of the Cr.P.C., that may be directed to be decided expeditiously.

Since counsel for the petitioner has prayed for withdrawal thereof, the petition is ordered to be dismissed, having been withdrawn, with a direction issued to the SSP, Sangrur, to ensure that genuine and sincere efforts are made to trace out Sukhdev Singh who seems to be, along with the petitioner, the prime accused in the FIR (as per the allegations made).

Further, if upon the petitioner surrendering she files an application under the provisions of Section 439 of the Cr.P.C., that would be decided on its own merits by the trial court, as expeditiously as possible.

26.11.2020
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned :Yes
Whether Reportable :No