IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-19213-2020 (O&M)
Date of decision: 11.08.2020

Priya Sharma

... Petitioner

Vs.

State of Haryana

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Satish Bhardwaj, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Addl. AG, Haryana.

Mr. Vaneet Soni, Advocate
for the complainant.

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ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.325 dated 08.06.2020 under Sections 408, 420, 34 IPC, registered at Police Station City Karnal, District Karnal.

Learned counsel for the petitioner submits that as per allegations in the FIR, the petitioner was working as Senior Executive in Supreme Security Limited and it is a common practice in the company that on the direction of the senior management of the company, certain entries are made in the system to make the balance of stock/entries in other branches at par with the company. It is further submitted that the FIR was registered at the instance of Anil Kashyap, who is Senior Executive at Karnal Branch with the allegations that on

23.03.2020, the Govt. has imposed lockdown on all sorts of physical movements and therefore, physical movement of foreign currency was not possible. On 30.03.2020, he received a phone call from accused Vipin Kumar Dua (who stands arrested) that he will initiate a stock transfer entry in his Karnal Branch for USD 20,000/- on 31.03.2020 from Chandigarh Branch, Sector-8. It is further informed that this currency is to be sold to Shiv Sai Forex Pvt. Ltd., Karnal after the lockdown. When the complainant told Vipin Kumar Dua that he cannot accept the same unless the physical foreign currency notes are transferred at his branch, he assured that physical foreign currency notes shall be delivered to Karnal Branch immediately after the lockdown is over and believing the assurance given by Vipin Kumar Dua and also considering his position in the company, the complainant agreed to accept the stock transfer entry in the software for USD 20,000/- (foreign currency equivalent to Rs.14,71,000/- that too without receiving actual foreign currency notes. It is further stated in the FIR that Vipin Kumar Dua told him that petitioner Priya Sharma will initiate the stock transfer entry to record transfer of USD 20,000/- from Chandigarh Branch to Karnal Branch and the complainant should accept the same immediately. It is further stated that Vipin Kumar Dua further asked him to accept the entry in a back date i.e. 18.03.2020, on which the complainant stated that as per the software of the company FX Plux, he will not accept the entry on the back date. Upon which, Vipin Kumar Dua told him that petitioner Priya Sharma will get it done and told him how to do it. It is further stated that on 31.03.2020 at about 01:40:31 PM, the stock was transferred and the petitioner explained the procedure of accepting it in the back date through online software. It is further stated that on the direction of Vipin Kumar Dua and as instructed by the petitioner, he accepted the stock transfer of USD 20,000 in a back date without reviewing the physical transfer. It is further stated in the FIR that when the lockdown was over, he enquired it from Vipin Kumar Dua to transfer the stock, he started avoiding and the FIR was registered.

Learned counsel for the petitioner further submits that in fact, the petitioner is not an authorized signatory of the bank account and it is only with Vipin Kumar Dua and the petitioner, on asking of Vipin Kumar Dua, who is Regional Manager, as usual, transfer of USD 20,000/- was made from Chandigarh Branch, Sector-8 to Karnal Branch. It is further submitted that while doing the transfer, whatsapp chat was also done between the petitioner and the complainant, which is attached as Annexure P-5. A perusal of the same would show that it was never transferred on a back date i.e. 18.03.2020, as claimed by the complainant and rather the entry was made on the same day i.e. 31.03.2020, as there is no such provision in the software of the company to make the back date transfer. It is next submitted that it is also case of the complainant that when the physical verification of the safe vault was done, it was observed in the physical verification report (Annexure R-2) that the keys of the same would remain with the Regional Manager himself i.e. Vipin Kumar Dua because the foreign currency in cash are kept inside the safe vault and it is his responsibility to maintain the same. It is thus submitted that statement made by Vipin Kumar Dua at the time of physical verification that one key was with petitioner and another was with Sukhchain Singh, is factually not correct, as it is own case of the Head Office that over all responsibility of cash inside the safe vault was with the Regional Manager himself. It is further submitted that Vipin Kumar Dua stands arrested on 10.07.2020 and during the investigation, when he suffered a disclosure statement with regard to cash, it was only stated that he has used it for his personal expenditure and nothing is left with him and therefore, nothing was recovered from him.

Learned counsel has referred to the reply filed by DSP, Karnal-II, wherein in para No.3, it is so stated and despite the fact that this affidavit is filed with reference to the bail application of present petitioner Priya Sharma, nothing is stated as to what Vipin Kumar Dua has stated in his disclosure statement qua involvement of the petitioner except reproduction of allegations made in the FIR.

Learned State counsel, on the basis of affidavit of DSP, Karnal-II, has argued on the similar lines.

Learned counsel for the complainant has filed separate reply on behalf of the complainant and has referred to the inventory prepared by Head Office (Annexure R-2) in which it is stated that in the presence of Vipin Kumar Dua and 12 other officals, wherein at Sr. No.6 to 12, the details of currency of different countries is given and submits that at Sector-8 Chandigarh Branch, there was no availability of USD, therefore, the accused persons have made an entry of transfer just to cheat the company. Learned counsel has further referred to another complaint made by Managing Director, Supreme Security Ltd. to SSP, Chandigarh for taking action against Vipin Kumar Dua, Regional Manager, Ankur Modgill, Assistant Manager and Priya Sharma, Senior Executive as well as one Sukhchain Singh, Field Executive with regard to bungling of the amount. It is further submitted that it is specifically mentioned in this complaint that as per the account books, as on 06.04.2020, after closing of financial year 2019-2020, Vipin Kumar Dua being Regional Manager, Sector-8, Branch and other persons were in possession of foreign currency of Rs.2,78,07,425/-, which is property of the company and it is found that even the accounts in ICICI Bank and Kotak Mahindra Bank are not tallying with the balance available with the company. In this complaint also, the transaction, which has taken place with the present complainant on 31.03.2020, is also explained. In this complaint itself, it is mentioned that keys of safe vault are required to be kept in custody of Regional Manager himself because foreign currency in cash are kept inside the safe vault. It is further submitted that even in this complaint, break up of the amount of Rs.4,91,61,424/- is given, which the accused have not accounted for.

In reply, learned counsel for the petitioner has submitted that in both the complaints against the petitioner, the primary allegation is regarding transaction, which has taken place on 31.03.2020 with the complainant. It is case of the complainant that overall responsibility of keeping the keys was of Vipin Kumar Dua being the Regional Manager of the company. It is further submitted that from the investigation conducted so far, as it is apparent from the affidavit of DSP that nothing has come on record that the petitioner has made any transfer of any amount as even Vipin Kumar Dua in his disclosure statement has not stated anything.

After hearing learned counsel for the parties and going through both the complaints i.e. present FIR as well as FIR registered at Chandigarh, as relied upon by learned counsel for the complainant, I find that it is not a case, where custodial interrogation of the petitioner is required.

Even otherwise, a perusal of the affidavit would show that even on 11.07.2020, a notice under Section 41 Cr.P.C. was served to father of the petitioner, but she did not join the investigation.

In view of the above, this petition is allowed and the petitioner is granted anticipatory bail subject to the conditions envisaged under Section 438 (2) Cr.P.C.

It will be open for the Investigating Officer to issue a notice in writing to the petitioner to join the investigation.

It is made clear that in case the petitioner failed to join the investigation or cooperate with the investigating agency, it will be open for the complainant/prosecution to move an application for cancellation of anticipatory bail.

The observations made in this order with regard to FIR registered at Chandigarh is only for the purpose of deciding the present bail application and will have no bearing on merits of the said FIR.

[ARVIND SINGH SANGWAN]
JUDGE

11.08.2020
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No