101

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-20547-2021
Date of Decision: 17.06.2021

YASHITA JAIN ....*Petitioner*

V/s.

STATE OF PUNJAB .....*Respondent*

CORAM: ***HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.***

Present: Mr. Jagmohan Bansal, Senior Advocate,
with Mr. G.S. Saini and Mr. Aman Garg, Advocates,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Sourabh Goel, Advocate,
for the complainant.

***

MANJARI NEHRU KAUL, J. (Oral)

Prayer in this petition filed under section 438 of the Code of Criminal Procedure 1973 is for seeking anticipatory bail in a case FIR No. 177 dated 26.12.2020 (Annexure P-1) lodged under Sections 420, 465, 467 468, 471 and 120-B of the Indian Penal Code 1860 registered at Police Station Daresi, District Ludhiana, Punjab.

Learned senior counsel for the petitioner, *inter alia*, contends that the allegations leveled in the FIR in question to the effect that the petitioner, in active collusion of Manpreet Singh and Manish Verma, officials of the Capital Small Finance Bank Ltd. (hereinafter referred to as "the Bank"), has operated locker No. 46 with the Bank on 12.11.2020, which was in the name of her husband Sahil Jain and removed certain crucial documents is totally false and against the facts on record. He further contends that though admittedly she did operate the locker on 12.11.2020 but she was neither asked by the bank official nor did she put her signatures in the Register of the Bank. He further contends that in fact it was the co-accused Manish Verma who made the requisite entries in the locker operating register and forged the signature of the husband of the petitioner, which fact stands admitted by the Manager of the Bank during his interrogation.

Still further, learned senior counsel has submitted that an application had been moved by her husband, Sahil Jain, with the Bank on 02.11.2020 requesting them to add the name of the petitioner as a joint lessee of the locker in question, hence, she was well within her right to operate the locker in the above background.

Learned senior counsel further submits that merely because the petitioner operated the aforementioned locker, it would not in any way imply that she was an accomplice to the crime allegedly committed by her husband – Sahil Jain *qua* which proceedings under Section 132 of the Central Goods and Services Tax Act (hereinafter referred to as "the Act") already stood initiated against him. He further submits that the essential ingredients to attract the mischief of Sections 415 and 420 of the Indian Penal Code, 1860 were clearly not made out with respect to the allegation leveled against the petitioner in the FIR in question.

In support of his averments, learned senior counsel has placed reliance on a judgement passed the Hon'ble Supreme Court in the case of ***Md. Ibrahim*** Vs. ***State of Bihar***; *2009 (8) SCC 751*. It has, thus, been submitted that the petitioner, who is a lady and does not have any criminal antecedents deserves the concession of anticipatory bail, as she has been falsely framed in the instant case at the behest and instance of the GST Department.

Per contra, learned counsel for the complainant while vehemently opposing the prayer and submissions of the learned Sr. counsel for the petitioner, has contended that the petitioner was an active conspirator in the crime in question, inasmuch as, she was well aware about the nefarious activities of her husband - Sahil Jain and the fraud which had been committed by him. It was further contended that the husband of the petitioner had floated as many as 25 shell companies in his name as well as in the name of the petitioner and other family members to avail the fraudulent Input Tax Credit of approximately Rs. 17.65 Crores. Still further while inviting the attention of this Court to the reply filed on behalf of the complainant, learned counsel submitted that both the co-accused Manpreet Singh and Manish Verma had in their statements recorded under Section 70 of the Act, disclosed that the petitioner had approached them on 12th November, 2020 and requested to operate the locker in question, since her husband i.e. Sahil Jain was out of station, which was factually incorrect, as she was well aware that at that point of time, he was in judicial custody for the offences committed under the CGST Act. It was also submitted that this circumstance went a long way to show that the petitioner was hand in glove with her husband and had operated the aforementioned locker with an oblique motive to remove crucial documents with regard to the transactions and crime committed by her & her husband under the CGST Act.

Learned counsel for the complainant has still further submitted that repeated summons issued under Section 70 of the GST Act, were sent at the address of the petitioner for recording her statement, however, she had been avoiding the same. He has also submitted that as far as the instant case is concerned, the *mala fides* on the part of the petitioner is writ large in as much as she has given an incorrect address in the present petition which is contrary to the address given by her and her husband before the GST authorities.

Learned counsel for the State has also vehemently opposed the submissions made by the learned senior counsel for the petitioner by contending that the custodial interrogation of the petitioner is necessitated, as there are serious allegations levelled against her of conniving with the co-accused and thereafter, removing vital and crucial documents pertaining to the transactions of the shell companies which were floated by her husband and the petitioner herself. He submits that the *mala fides* on the part of the petitioner are evident from the *modus operandi* adopted by the petitioner of operating the locker by mis-stating facts about her husband being out of station, whereas, it was well within her knowledge that her husband was in judicial custody on that particular day.

Heard.

Prime facie, there are serious and specific allegations leveled against the petitioner in the FIR in question for which her custodial interrogation would be imperative, more so, since she allegedly removed crucial documents having a direct link with the proceedings, which were pending against her and her husband under the CGST Act.

Finding no merit, the present stands dismissed.

June 17, 2021 **[MANJARI NEHRU KAUL]**
Ess Kay **JUDGE**

Whether speaking / reasoned : Yes /No.
Whether Reportable : Yes/No