IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

****

CRM-M-34461-2021 (O&M)
Date of Decision: 06.09.2021

****

Veenu Taneja and another

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Jatinder Singh, Advocate
for the petitioners.

Mr. B.S. Sewak, Addl. A.G., Punjab.

Ms. Munisha Gandhi, Senior Advocate assisted by
Mr. Gurinder Singh Gandhi, Advocate &
Mr. Viraj Gandhi, Advocate,
for the complainant.

SUDIP AHLUWALIA, J. (ORAL)

This is a petition for anticipatory bail filed on behalf of the petitioners under Section 438 Cr.P.C., in case FIR No.83 dated 23.02.2021, under Sections 406, 420 & 120-B of the IPC, registered at Police Station Zirakpur, District SAS Nagar.

[2]. The FIR was registered against the petitioners on the allegations of committing cheat, fraud and breach of trust with the complainants, namely, Balbir Kumar Jain and Deepika Chalana. Substance of the allegations against the petitioners was that on the pretext of purchasing gold jewellery, ornaments and gold coins by reposing confidence/trust during the initial transactions by making payments to the applicants on time, they subsequently avoided to make further payments and

thus cheated the complainants, who have contended that from the very beginning their intention was to cheat them by taking a huge quantity of gold ornaments, jewellery and gold coins etc.

[3] It was argued on behalf of the petitioners that they have been falsely implicated in the present case. In the year 2018, the Petitioner No.1 had lost a few bank cheques from her cheque book containing No.013441 to 013455 and the lost cheuqe numbers were 013452, 013453, 013454, 013455 and she had requested the bank to stop payment of these cheques and in this regard, she had also given a complaint to the Punjab Police and on her complaint, the concerned police Authorities had recorded a "Lost Information Report" bearing No.7251/2018 dated 17.4.2018. It was further argued that in November 2020, the Petitioner No.1 had received a legal notice issued by Sh. Vikas Jain and Sh. Devanshu Aggarwal Advocates on the instructions of M/s J.K. Jewellers through its partner Mr. Rakesh Jain under Section 138 of Negotiable Instrument Act and after receiving the said notice, the applicants came to know that it is the complainant and his wife, who had very cleverly stolen four cheques of the applicant No.1 in March-April, 2018 from her House-cum-Office and she immediately gave a complaint to the Police against the Complainant side including Arun Jain and his wife Charu Jain to the SSP Mohali, which was marked to DSP Mohali. It was further argued that the complainant party had themselves filled one cheque out of four stolen cheques of the amount of their choice and further falsely presented the same in their bank after more than 2½ years from the date of theft of those cheques. It has also been argued that the accused/applicants and the complainant and his wife were called by the DSP Mohali, where Reader of DSP had recorded their statements and given

assurance that he will take action on their complaint, but to their utter surprise, they came to know that this false FIR has been registered against them from the office of DSP Mohali. According to the Petitioners, the present FIR is absolutely an abuse of the process of law, and that a bare perusal of the FIR shows that the complainant and his wife have hatched a conspiracy against the applicants to grab money from them under threat of false complaint against them. The Complainant had himself admitted in the FIR that account with regard to purchase of jewellery and ornaments was cleared by Veenu Taneja. It was further argued that the complainant and his wife have been openly blackmailing the applicants. On the same and identical facts of the FIR and on the same cause of action, the complainant has already filed a complaint under Section 138 of N.I Act, which is pending in Chandigarh Courts, in which the applicant No.1 has appeared and been granted bail by the said Ld. Court and vide order dated 23.12.2020, the said Ld. Court has specifically stated that "since, the complaint is totally based on documentary evidence, no benefit would be achieved by sending the matter to the police for investigation, particularly when matter can be enquired by the Court itself". It has further been argued that the applicants had never visited the shop or home of the complainants for the last two years and there is no signature of the applicants on any bill raised by the complainant regarding receiving of any jewellery, which clearly shows that they have falsely prepared the bills. It is the further submission that the case is based on documentary evidence, which is to be proved during trial and at this stage nothing is to be recovered from the Petitioners and they are not required for any custodial interrogation and prayed for grant of anticipatory bail to the applicants. It was lastly also submitted on behalf of the petitioners that they are innocent and have not committed any offence and rather the complainants have falsely implicated them, as complainant Arun Jain and his wife had stolen blank signed cheques of applicants from their house, regarding which they had already informed the police and got their payments to be stopped and thereafter complaint under Section 138 of Negotiable Instrument Act is pending, in which they have been summoned as accused and they have also moved one complaint against Arun Jain and Charu Jain, which is pending for inquiry, but no action has been taken against them. It has been emphatically argued that custodial interrogation of the Petitioners is not required and they are ready to join investigation and it is only a case of documentary evidence, which would be seen at the time of trial.

[4] The petition for anticipatory bail filed on behalf of the petitioners was rejected by the Ld. Court below with the following observations:-

> *"Considering the pleas of applicants and hearing the arguments of learned Counsels for both the complainants, this Court is of the considered view that the allegations levelled against both the applicants are serious in nature and the amount involved in both the complaints is huge. No doubt question with regard to theft of blank signed cheques of applicants and maintaining of record regarding sale of gold articles would be seen at the time of investigation, but in order to go to the root of the case and for fair investigation, at this stage, I do not deem it proper to grant the concession of anticipatory bail to the applicants and their custodial interrogation is required for the purposes of fair, complete and effective investigation. Thus, I find no merit in the present bail application and*

> *the same is hereby dismissed. Police record be returned and file of this bail application be consigned to the record room."*

[5] On 24.08.2021, time was sought for on behalf of the complainant to file reply and place certain vital evidences showing outstanding liabilities of the petitioners as acknowledged by them. Such reply has since been filed along with copies of various documents such as the Account/Diary (Annexure R-2/1) maintained by the complainant which purportedly keeps record of the jewellery items delivered to the petitioners and the amount of money which thus due became against them. Annexures R-2/2 to R-2/8 are seven separate Bills pertaining to the jewellery items, allegedly, supplied to the petitioners in which even their PAN Account Number has been mentioned. Annexure R-2/9 happens to be a record of WhatsApp conversation between the parties for a period between 10.10.2018 to 01.10.2020, and Annexure R-2/10 happens to be a transcript along with a Pendrive containing the phone call recordings between the parties.

[6] This Court has carefully gone through the claims and counter claims of both sides, and the documents relied upon by them. After hearing submissions of Ld. Counsel for the contesting sides the Court finds no ground to take a different decision from that of the Ld. Addl. Sessions Judge who had dismissed the Petitioners' prayer for anticipatory bail. This is so, because a glance over the documents filed on behalf of the Complainant/ Respondent along with his reply by and large are consistent with the allegations in the complaint. The Diary Account maintained by the Complainants in respect of the Petitioners, especially Veenu Taneja shows a series of entries in which the items advanced to the Petitioners have been

noted along with their due prices. It is also seen that many of these pages from the Diary bear the own signatures of the Petitioner No.1 acknowledging receipt of the ornaments, or the amount payable which had become due on any given date. On certain pages the Complainant side has itself noted that payments upto those particularly dates had been cleared, which fact is fully consistent with the allegation that in the initial days the payments were made by the Petitioners within time, but they started avoiding such payments subsequently when a huge amount of golden ornaments and valuable items had been passed on to them. The fact that the Bills Annexure R-2/2 to R-2/8 which contain price of the golden items/ valuable items purportedly issued in the name of the Petitioners along with the payable GST amounts thereupon also contain the PAN number of the Petitioners would again go to indicate that the allegations against them in the FIR may not be altogether unfounded, which fact is further corroborated from the long WhatsApp conversations between the parties stretching over a period of almost 2 years between 10.10.2018 to 01.10.2020. Lastly, transcripts of the telephonic conversations between Complainant Deepika Chalana and the Petitioner No.1 Annexure P-2/10 of which the recording has also been filed in the form of a Pendrive would also go to reveal that the Petitioner No.1 in such telephonic conversation as late as on 06.10.2020 had not only acknowledged that she had to pay up for the golden and Jewellery items already taken by her, but had also admitted that she had already melted some of those jewellery items and valuables. This Court is of the further opinion that the conduct of the Petitioners in alleging that cheques already signed by the Petitioner No.1 had been cleverly stolen by the Complainants without her knowledge from her house for which they initially lodged a missing report in the Police Station and also got the payments stopped would *ex facie* not appear to be the conduct expected of a reasonable and prudent person of normal intelligence. It is most unusual for anyone for unnecessarily keep his or her bank cheque-book filled up without any reason, and then also not know that such filled up cheques have been taken away by any outsider. But since such conduct as also all other allegations and counter allegations of the parties are presently the subject matter of an investigation, this Court refrains from making any further comments. However, considering all these facts and circumstances it would appear that custodial interrogation of the Petitioners against whom very clear and cogent allegations have been made, is necessary for eliciting for actual truth.

[7] For the aforesaid reasons, the instant petition of the Petitioners for anticipatory bail is dismissed.

06.09.2021 **(SUDIP AHLUWALIA)**
JUDGE

Bhumika/Satyawan

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No