

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

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CRM-M-53352-2021.

Date of Decision: 21.12.2021.

Kiran Kaushik

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Bikram Chaudhary, Advocate for petitioner.

Lalit Batra, J.(Oral)

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner-**Kiran Kaushik** in case FIR No.169 dated 03.12.2021 under Sections 120-B, 406, 420, 467, 468 and 471 IPC, registered at Police Station Bahin, District Palwal.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that as a matter of fact, petitioner is daughter of co-accused-Rajender Kaushik and sister of co-accused-Mithun Kaushik and she has been falsely implicated in the instant case FIR only for the reason that her brother co-accused Mithun Kaushik is a notorious person having criminal background and being involved in as many as five other criminal cases besides complaints under Section 138 of Negotiable Instruments Act. He further urges that father of petitioner has already disowned co-accused Mithun Kaushik from his moveable and immovable properties, vide public notice dated 09.11.2009 published in newspaper 'Amar Ujala', New Delhi. He further submits that petitioner

never met the complainant at any point of time and further she was not aware of any case of Raghunath, father of complainant-Gajraj. He further submits that there was no telephonic conversation between petitioner and complainant and no amount was ever entrusted to her or received by her and even no demand of any money was ever made by her from the complainant. He further submits that no document as alleged was ever prepared by the petitioner nor any such document was ever used or supplied by her in the commission of alleged offence. He further submits that alleged transaction of money is attributed to co-accused Mithun Kaushik and even otherwise if story concocted by the complainant is believed to be true, then the alleged deal between complainant and co-accused Mithun Kaushik is against public policy and is hit by the provisions of Contract Act and complainant is liable to be punished for his illegal acts. He further urges that nothing incriminating is to be recovered at the instance of petitioner. He further submits that though petitioner has no nexus whatsoever with the alleged offence, she is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to her.

Notice of motion.

At the asking of Court, Mr. Amit Aggarwal, Deputy Advocate General, Haryana, accepts notice on behalf of respondent-State. Complete copy of paperbook be supplied to him during course of the day.

Learned State counsel while opposing the cause of petitioner has vehemently argued that petitioner alongwith co-accused namely Rajender Kaushik, Mithun Kaushik and Jeetu in connivance with each other

while showing their links with Judges of High Court, committed fraud upon complainant-Gajraj son of Raghunath Singh, by preparing false documents and duped him of Rs.28,50,000/- on the pretext of providing service benefits/arrears to the tune of Rs.One Crore regarding suspension period of Raghunath Singh, father of complainant-Gajraj, and in lieu thereof demanded 30% commission from complainant-Gajraj. He further urges that co-accused Mithun Kaushik called complainant-Gajraj and stated that while taking services of accused-Kiran Kaushik (present petitioner), they have won the case and copy of order has been obtained and then accused persons had also shown a cheque amounting to Rs.98,25,432/- issued by Revenue Department to the complainant. He further submits that petitioner was duly named in the FIR and she actively participated in procuring forged order as well as cheque, as detailed above. He further urges that in view of nature of offence committed by the petitioner, her custodial interrogation is required to unveil the truth and to recover the laptop used in the commission of offence and as such she is not entitled to the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the record of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner alongwith co-accused namely Rajender Kaushik, Mithun Kaushik and Jeetu in connivance with each other committed fraud upon complainant-Gajraj son of Raghunath Singh by preparing false documents and duped him of Rs.28,50,000/- on the pretext of providing service benefits/arrears to the tune of Rs.One Crore in favour of Raghunath Singh, father of complainant.

The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for her entitlement to pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

21.12.2021

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