

CRM-M-43567-2019 (O&M)

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

**CRM-M-43567-2019 (O&M).
Decided on: July 29, 2021.**

Poonam

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT

**Mr.Sukhbir Maandi, Advocate, for
Mr.Shivender Pal Singh, Advocate,
for the petitioner.**

Mr.Rana Harjasdeep Singh, DAG, Punjab.

**Mr.Maninder Singh Saini, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No.0129 dated 29.8.2019, under Sections 406 and 420 IPC and Section 24 of the Immigration Act, 1924, registered at Police Station Satnampura, Kapurthala.

FIR in the present case was lodged on the basis of the

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complaint made by the complainant namely Parminder Kaur wife of late Sh.Ajit Singh, against two accused namely Pooja Joshi and Poonam (**petitioner**) by alleging that the aforesaid Pooja Joshi finalised an amount of Rs.22 lacs to be taken by her for the purpose of sending the son of the complainant abroad (Canada) on work permit basis and the aforesaid Pooja Joshi herself received Rs.10 lacs by visiting her house in Gali No.2 Mansa Devi Nagar Hadiyabad Phagwara, District Kapurthala and also told that the son of the complainant would be sent abroad by paying the remaining amount and thereafter, the aforesaid Pooja Joshi sent her sister namely Poonam (**petitioner**) for getting the remaining amount of Rs.9,50,000/- has been paid to Poonam also.

Learned counsel for the petitioner has submitted that even as per the FIR itself the main accused in the present case was Pooja Joshi who has been alleged to have taken money for sending the son of the complainant abroad and she had received an amount of Rs.10 lacs and that the present petitioner was only sister of the main accused who was sent for taking the remaining amount and she had taken Rs.9,50,000/-. He has submitted that the entire amount was allegedly paid in cash and in fact, the case was planted upon the petitioner. Learned counsel for the petitioner has further submitted that the petitioner is not involved in any other case of such like activities. He has further submitted as per order dated 6.11.2019, the learned counsel for the petitioner at that time had contended that she is ready to refund the amount of Rs.9,50,000/- to the complainant subject to the final outcome of the court case and this Court had directed that let the

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needful be done within a period of two weeks from that date and interim protection was granted to the petitioner. Thereafter, on 19.12.2019, it was stated by the learned counsel for the petitioner that an amount of Rs.3 lacs will be paid to the complainant within a period of 10 days.

Mr.Sukhbir Maandi, Advocate, states that in this case, he has instructions to appear for the petitioner and he has sent his vakalatnama through whatsapp group today itself as the matter is being heard through video conference. He has submitted that it is settled law that such kind of condition cannot be imposed for recovery of money for the grant of bail. He has submitted that it is a case of anticipatory bail and the petitioner has already joined investigation and has cooperated with the investigation process wayback in November 2019 and therefore, the police cannot become a recovery agent for the purpose of present case.

Mr.Maninder Singh Saini, Advocate, who has caused appearance on behalf of the complainant has submitted that a compromise has already been effected between the complainant and other co-accused namely Pooja Joshi and an affidavit has also been given by the complainant and complainant has also received Rs.1 lac and one cheque from Pooja Joshi. However, an amount of Rs.9,50,000/- is still to be recovered from the present petitioner.

Learned State counsel, on instructions from ASI Ranjit Singh, has submitted that the petitioner has already joined investigation on 18.11.2019 i.e. more than 2½ years back and has fully cooperated in the investigation process and is no longer required for custodial investigation.

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I have heard the learned counsel for the parties.

It is the case of the complainant herself that the matter has been compromised with the main accused namely Pooja Joshi against whom main accusations have been made in the FIR and so far as present petitioner is concerned an amount of Rs.9,50,000/- is still to be recovered from her. It is settled law that police cannot become a recovery agent in money matters especially when the main accused in the present case is the one with whom the complainant has already compromised the matter. The present case is for anticipatory bail and conditions cannot be imposed for refund of money in the matters of anticipatory bail. The State has taken a specific stand that the petitioner has already joined investigation and is not required for custodial investigation.

In view of above, the present petition is allowed. It is directed that in the event of arrest, the petitioner shall be released on bail subject to furnishing personal bond/surety bond to the satisfaction of Arresting/Investigating Officer. The petitioner shall abide by all the conditions as provided under Section 438 (2) Cr.P.C.

July 29, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No