

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

I) CRM-M-52820-2019 (O&M)

Swati Thapa ... Petitioner

Versus

State of Haryana ... Respondent

II) CRM-M-14410-2020 (O&M)

Hemant Chauhan ... Petitioner

Versus

State of Haryana ... Respondent

Date of Decision:-18.1.2021

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Dhivya Jerath, Advocate for the petitioner(s).

Ms. Sheenu Sura, DAG, Haryana,
assisted by ASI Brijpal Singh.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. This order shall dispose of the aforesaid two petitions filed on behalf of petitioners Swati Thapa and Hemant Chauhan seeking grant of anticipatory bail in respect of a case registered vide FIR No.0279 dated 23.11.2019 at

Police Station Sector-14, Panchkula, District Panchkula under Sections 120-B, 406 and 420 of Indian Penal Code.

2. The FIR was registered at the instance of Bharat Bhushan wherein it has been alleged that he, Vinay Kumar, Mrs. Neeraj Madan, Mrs. Dimple and Mrs. Sushil Madan owned shop No. 80, Sector-15, Panchkula which was in the name of the complainant Bharat Bhushan, Vinay Kumar and Shri Firaya Lal in which they were running a confectionery and sweet shop. However, in the year 2016, due to losses the said shop was sold. Another shop located in Pooja Enclave Colony Saharanpur, which was in the name of Ms. Neeraj Madan, was also sold off. It is alleged that the accused Hemant Chauhan, his wife Swati Chauhan and Davindra Chauhan, who had been visiting their shop earlier got to know that the complainants were having money i.e. the sale proceeds and started tempting them to invest the amount in their jewellery business and that in return they would give them 3 percent interest and would also give gold ornaments to them as security in exchange for the principal amount. The said accused also represented that there were some other partners in their business of investment and that the amount which the complainants invest would be either by way of cheques in the name of such partners or in cash. The names of such partners were disclosed as Pran Mudgil, Sanjeev Sharma, Manoj Gill, Pinku Verma, Amit Sharda, Pankaj Khanna, Ajay Patial and Rinku Verema. Being taken in by the representation of the accused, they transferred an amount of ₹ 1.30 crores during the period 6.2.2017 to 26.2.2019 by way of cheques and cash. The details of the amounts transferred by way of cash as well as cheques to various partners has been mentioned in detail in the FIR.

3. Learned counsel for the petitioner Hemant Chauhan has submitted that out of the alleged defrauded amount of ₹1.30 crores it is only an amount of ₹10 lakhs which is stated to have been credited into the account of petitioner Hemant Chauhan, which the prosecution alleges that he transferred later into the account of his wife Swati Thapa. It has been submitted that pursuant to interim directions issued on 15.6.2020 in CRM-M-14410 of 2020 titled 'Hemant Chauhan Vs. State of Haryana', the petitioner has already deposited a demand draft of ₹2 lakhs with the Investigating Officer and has also furnished a security worth ₹8 lakhs in the form of immovable property and thus the amount of ₹10 lakhs virtually stands secured.
4. Learned counsel for the petitioners further submits that the petitioner Swati Thapa, in any case, cannot be burdened with any liability inasmuch as she had married Hemant Chauhan only after the complainant had passed on the gold ornaments etc. to the accused.
5. Opposing the petition, learned State counsel has submitted that since both the petitioners are specifically named in the FIR and the allegations virtually stand substantiated from the fact that an amount of ₹10 lakhs was credited in the account of petitioner Hemant Chauhan and later in the account of Swati Thapa, no case for grant of anticipatory bail is made out. Learned State counsel has, however, informed that pursuant to interim directions the petitioners have since joined investigation and that the challan already stands presented.
6. I have considered rival submissions addressed before this Court.

7. No doubt it is a case involving a fraud of about ₹1.30 crores. However, there were several accused in this case and the accused Hemant Chauhan is stated to have benefited to the tune of ₹10 lakhs which stands secured pursuant to interim order dated 15.6.2020 passed in CRM-M-14410 of 2020. The petitioner Swati Thapa, in any case, has received the same i.e. amount of ₹10 lakhs, which was initially credited in the account of petitioner Hemant Chauhan and there is no other independent transaction in her account. In any case, since the challan already stands presented, the petitions are accepted and the interim directions issued by this Court vide orders dated 10.12.2019 and 15.6.2020 are hereby made absolute subject to the condition that the petitioners shall appear regularly before the Trial Court and abide by any such condition as may be imposed by Trial Court for ensuring their regular presence.

18.1.2021

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**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No