

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-17769-2022
Date of decision : 28.06.2022

Tripti Gupta

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Krishan Kumar Thakur, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.0119 dated 08.08.2019 registered under Sections 420, 465, 467, 468, 471, 120-B IPC at Police Station City Nawanshahar, District SBS Nagar.

Learned counsel for the petitioner has submitted that the petitioner has not been named in the FIR and the only allegation levelled against the petitioner is that she was present in the office of her husband Amit Gupta on 03/04.05.2017 as has been mentioned in the FIR at page 21 of the paper book. It is further submitted that no amount has been paid to the petitioner or her husband. It is also submitted that co-accused of the petitioner Rakesh Goyal, who was also stated to be present along with Amit Gupta and the present petitioner in his office, has been granted regular bail by a coordinate Bench of this court vide order dated 10.06.2020 (Annexure

P-9). It is stated that the transaction between the parties had continued till the year 2019 whereas the allegation at page 21 pertains to the year 2017.

Learned State counsel, on the other hand, has vehemently opposed the present petition for anticipatory bail and has submitted that in the present case, the petitioner, along with the other co-accused, has duped the complainant party of an amount of Rs.10 crores after conspiring and by fraudulently inducing the complainant to believe that there was some Radio Active Material which could be sold to them and the accused persons including Amit Gupta, the husband of the petitioner, as well as the petitioner had referred to the documents which showed the financial position of the company M/s Raisal Energy and Metal Limited in the international market and had also shown documents to showcase that the said company, of which Amit Gupta was alleged to be the director and authorised nominee as per the FIR, was dealing in the sale and purchase of radio active material in the international market. It is submitted that said allegations have been specifically made in the FIR, which is apparent from a bare reading of the vernacular of the FIR as facts of the FIR at page 24 of the paper book have not been correctly translated. It is further submitted that there are specific allegations levelled against the petitioner and her husband with respect to having participated in the act of inducing the complainant party to undertake the said transactions and also in making the complainant party believe that M/s Raisal Energy and Metal Limited was authorised by institutions of India and the world in dealing in Radio Active Material and had also informed the complainant party that they were aware that the said Radio Active Material was of Brigadier Surya Partap Singh. It is also alleged in the FIR that it is on account of inducement by the accused

party, including the petitioner and Amit Gupta, that the complainant had proceeded with the transaction and had paid the amount of Rs.10 crores to the accused party on the pretext that it was for the purpose of inspection of the radio active material by the persons stated to be DRDO officials. It is further stated that the documents shown by the petitioner and her husband were forged and fabricated documents as the said company M/s Raisal Energy and Metal Limited had not been dealing in Radio Active Material, nor the persons, who had come to inspect, were the officials from the DRDO. It is argued that a very deep rooted conspiracy has been entered into by all the accused persons, including the petitioner and her husband, so as to dupe the complainant. It is also argued that the custodial interrogation of the petitioner is necessary for the purpose of recovery of the original documents which had been forged and presented to the complainant and also for the purpose of finding out the entire modus operandi adopted vide which the complainant has been duped.

This Court has heard learned counsel for the parties and has perused the paper book.

A perusal of the FIR would show that Amit Gupta was stated to be the Director of M/s Raisal Energy and Metal Limited and accused no.8 (apparent from page 13 of the paper book) has been shown to be Smt. Gupta, wife of Amit Gupta. A further perusal of the FIR from page 21 upto page 25 of the paper book would show that the present petitioner has been repeatedly addressed as the wife of Amit Gupta and has been made as an accused as Smt. Gupta, wife of Sh.Amit Gupta. It is not disputed that the petitioner is the wife of Amit Gupta and thus, the argument of learned counsel for the petitioner to the effect that the petitioner has not been named

in the FIR, is, misconceived and is rejected. The allegations in the FIR are very serious and they reflect a deep rooted conspiracy hatched by the accused persons, in which the petitioner and her husband Amit Gupta have also played a very active role and had conspired to fraudulently induce the complainant to believe that the accused persons were dealing in Radio Active Material and would be selling the same to the complainant and in the process had even taken a sum of Rs.10 crores from the complainant partly paid at different points in time on the pretext that it was for the purpose of calling the persons, who were stated to be scientists from DRDO for inspection. Several documents are stated to have been shown to the complainant party to show that the accused persons had been dealing in the sale and purchase of Radio Active Material in the international market, whereas all the said documents as per the case of the prosecution were forged and fabricated. Specific allegations have been made against the petitioner to the effect that the petitioner and Amit Gupta were present in the office when the complainant met them on 03/04.05.2017 and the present petitioner and Amit Gupta, along with one Rakesh Goyal, had informed him that Amit Gupta was the authorised nominee of M/s Raisal Energy and Metal Limited, whose registered office is in London and in India as well and then the petitioner and the said accused persons had also informed the complainant that the said company is duly entered in Bhava Automatic Research Centre and also in several other international institutions and agencies, e.g. World nuclear Association etc. and that M/s Raisal Energy and Metal Limited was authorised by the institutions of India and the world to deal in Radio Active Material and that the petitioner and her husband further claimed that they were also aware that the said Radio Active

Material was of Brigadier Surya Partap Singh, which was then offered to the complainant at the rate of Rs.2400 crores per inch. In addition to the above said allegations, there were further specific allegations levelled against the petitioner and her husband, as are apparent from page 23 and 24 of the paper book (Annexure P-1 FIR) in which it has been stated that the complainant had met with Amit Gupta in his office again where the petitioner was also present and the complainant had given his consent to buy Radio Active Material at the price agreed upon and thereafter, the complainant was given a list of chemicals so that he could get testing of Radio Active Material from co-accused Binay Aggarwal and that after meeting the petitioner and her husband as well as other the accused, the complainant discussed this matter with his friends and proceeded further with the transaction. It has thereafter been alleged that another meeting in the office of Rajesh Kumar was convened where the petitioner and her husband were also present and it is there that the petitioner and her husband had presented documents which were stated to be of M/s Raisal Energy and Metal Limited and the petitioner and her husband tried to prima-facie show that the said company was dealing in the sale and purchase of Radio Active Material in the international market. These allegations are apparent from the vernacular of the FIR at page 80 of the paper book as the FIR at page 24 has not been correctly translated. It is the case of the prosecution that the said documents were forged and fabricated as the said company does not deal in Radio Active Material. It is further specifically alleged that it was on the basis of the assurances given by the petitioner and her husband Amit Gupta, that the complainant party had further proceeded with the transaction. From a perusal of the FIR, it is thus, apparent that the argument raised by learned

counsel for the petitioner to the effect that only a single allegation has been made against the petitioner, is misconceived. It has also been specifically alleged that the demand draft of Rs.97,75,000/- was issued in the name of company M/s Raisal Energy and Metal Limited, which was sought to be projected as the company dealing in Radio Active Material by the petitioner and her husband by relying upon forged documents and the husband of the petitioner is also stated to be authorised nominee of the said company and thus, it cannot be said that the petitioner did not gain any benefit out of the entire transaction. Further part of the FIR would show that even with respect to cash having been paid to the tune of Rs.72 lacs, there is a receipt dated 01.07.2017 on the letter pad of M/s Raisal Energy and Metal limited. The reading of the entire FIR shows that there was a deep rooted conspiracy at play, and the allegations levelled against the petitioner are serious and thus, she does not deserve the concession of anticipatory bail. However, the recovery of the original documents which are stated to be forged and fabricated, is to be effected from the petitioner and the petitioner has been evading the process of law as the FIR was registered on 08.08.2019, in which the petitioner has been made accused no.8, whereas the petitioner had applied for anticipatory bail before the Sessions Court only on 16.04.2022 (Annexure P-10 Page 71). Reliance sought to be placed upon the order dated 10.06.2020 passed by the coordinate bench of this court in case of co-accused Rakesh Goyal, does not further the case of the petitioner in any manner, inasmuch as the said Rakesh Goyal was granted regular bail whereas the petitioner in the present case is seeking the concession of anticipatory bail.

Keeping in view the above said facts and circumstances, the

petitioner does not deserve the concession of anticipatory bail and hence, the present petition is dismissed.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

June 28, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No