

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(204)

CRM-M-31638-2021

Date of decision: - 08.03.2022

Divya Thakur

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Ashok Kumar Khanna, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 438 of Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.67 dated 24.05.2021, registered under Section 420 of the Indian Penal Code, 1860 and Section 13 of the Punjab Immigration Act, at Police Station Khilchian, District Amritsar.

In the present case, the FIR was registered on the complaint filed by Balihar Singh to the effect that the present petitioner had committed fraud with the complainant on the pretext of sending the nephew of the complainant abroad. It has been alleged that the petitioner

had demanded Rs.15 lakhs for providing study visas and an amount of Rs.5,50,000/- was given in the form of cheque to the petitioner in the month of March, 2018, which was encashed by the petitioner and thereafter, she demanded Rs.3 lakhs more and the said amount of Rs.3 lakhs was paid to the petitioner in July, 2018. After paying the said substantial amount of money to the petitioner, the petitioner provided the complainant party with some fake offer letters in the name of some of the Universities abroad. The complainant in view of the above, sought for his money to be returned and also the documents. A cheque to the tune of of Rs.5.30 lakhs was then given by the petitioner, which was dishonoured on the ground of insufficient funds. Thus, it is alleged that in the process, the petitioner had duped the complainant of the amount of Rs.8.50 lakhs. Further, the petitioner had filed an application for anticipatory bail in the present FIR, which was rejected on 20.07.2021 and the Additional Sessions Judge, Amritsar while dismissing the said application for anticipatory bail, had observed that the petitioner is a habitual offender and there is another FIR No.35 of 2019 under Sections 406 and 420 of IPC, registered at Police Station Navi Baradari Jalandhar against him on the similar kind of allegations levelled by one Nisha. It was also observed therein that in the present case there was an agreement dated 07.02.2019 between the present petitioner and the complainant, in which, the petitioner had admitted receipt of Rs.8.50 lakhs for the purpose of sending nephew of the complainant abroad and had also stated that she would return the said amount of money.

On 09.08.2021, a Co-ordinate Bench of this Court was

pleased to issue notice of motion in the present matter and had directed that the petitioner would pay Rs.1,00,000/- in the name of the complainant to the Investigating/arresting officer at the time of joining the investigation and also the remaining amount, as undertaken, within period which would be fixed by the Court. The relevant portion of the said order is as under: -

"In the meanwhile, the petitioner is directed to join the investigation within 15 days from the date of this order and in the eventuality of her arrest, the petitioner shall be released on interim anticipatory bail by the arresting officer/investigating officer on furnishing of bail bonds by her to the satisfaction of the arresting officer/investigating officer. The petitioner shall hand over the account payee bank draft for amount of Rs. 1,00,000/- in the name of Balihar Singh to the Investigating/arresting Officer at the time of joining the investigation as undertaken by her while the remaining amount shall also be paid by the petitioner as undertaken within period to be fixed by this Court or as may be agreed to by the complainant. The petitioner shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which she shall not be entitled to the protection of interim anticipatory bail allowed to her.

(ARUN KUMAR TYAGI)

JUDGE

09.08.2021"

Thereafter, the matter was adjourned to 22.09.2021 and 30.11.2021. On 30.11.2021, this Court was pleased to pass the following order: -

"Learned counsel appearing for respondents no.2 & 4 has submitted that he would be appearing on behalf of respondent no.3 as well. Reply filed on behalf of respondents no.2 & 4 be read on behalf of respondent no.3 also.

Learned counsel for respondents no.2 to 4 has submitted that

the petitioner has handed over a bank draft of Rs.1,00,000/- and the same has been duly received by him.

Learned counsel for the petitioner has submitted that he is ready to pay the remaining amount of Rs.4,50,000/- and due time may be granted to him. He has further submitted that he will pay an amount of Rs.2,25,000/- within a period of two months from today and the balance amount of Rs.2,25,000/- within a period of further two months, i.e. four months from today.

Learned counsel for the petitioner is directed to bring draft of Rs.2,25,000/- on the next date of hearing.

Adjourned to 08.02.2022.

(VIKAS BAHL)

JUDGE

November 30, 2021"

In spite of the above-said statement made on behalf of the petitioner, that she would deposit Rs.2.25,000/- within a period of two months from the date of the said order i.e. 30.11.2021 and the balance amount of Rs.2,25,000/- within a period of further two months, the said amount had not been paid by the petitioner within the stipulated period and when the matter came up on 08.02.2022, this Court was pleased to pass the following order: -

"CRM-39523-2021

For the reasons mentioned in the application, same is allowed subject to all just exceptions and reply on behalf of respondent Nos. 2 to 4 is taken on record.

Main Case

Learned counsel for the petitioner has submitted that although, the petitioner was required to bring a demand draft of Rs.2,25,000/- today, as per the statement made by him, which was recorded in order passed by this Court on 30.11.2021, but has not been able to bring the same today and has sought one last opportunity to bring the said demand draft and has undertaken that the said demand draft of Rs.2,25,000/- would be prepared in the name of the complainant and

would be produced on the next date of hearing.

Adjourned to 08.03.2022.

The petitioner is directed to produce the demand draft of Rs.2,25,000/- on the next date of hearing and he would also be bound by his statement recorded in the order dated 30.11.2021 with respect to payment of the balance amount also.

It is made clear that if on the next date of hearing, the demand draft of Rs.2,25,000/- in the name of the complainant is not produced by the petitioner, then the interim order passed in favour of the petitioner would be liable to be vacated."

A perusal of the above order would show that although as a last opportunity, the petitioner was asked to produce the demand draft of Rs.2.25 lakhs on the next date of hearing and also pay the balance amount, it was held that in case, the demand draft is not produced as directed, the interim order passed in favour of the petitioner would be liable to be vacated.

Today also, the said demand draft has not been presented.

It is not in dispute that there 15 cases under Section 138 of the Negotiable Instruments Act, 1881 are pending against the petitioner.

Keeping in view the abovesaid facts and circumstances, moreso, the fact that there are serious allegations against the petitioner in the FIR to the extent that the petitioner had duped the complainant of Rs.8.50 lakhs on the promise of getting study visas for his nephew and had even given the fake offer letters of some universities to him and also keeping in view the conduct of the petitioner, who had taken the benefit of interim protection granted by this Court and had not complied with the same, in spite of being granted several opportunities to comply with the same and also the fact that she is involved in several other cases, which

are stated to be pending, the present petition for anticipatory bail is dismissed.

Nothing stated above shall be construed as a final 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.

March 08, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes