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

CRM-M-28694-2022

Date of decision:08.07.2022

AMANDEEP KAUR

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. A.P.S. Rehan, Advocate
for the petitioner.

Mr. Harpreet Singh Multani, AAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition cast under Section 438 of Cr.P.C., seeks grant of anticipatory bail in case FIR No.12 of 28.01.2022, registered at Police Station Kotwali Patiala, District Patiala, wherein offences constituted, under Sections 406, 420, and, 120-B of IPC, are embodied.

2. The complainant in the year 2020, purchased a JCB machine bearing No.PB-10-ES-3624, Model 2014. For making purchase of the above machine, he had secured finance from Magna Finance Jalandhar Ltd. However, he had handed over the machine (supra), to Tejinder Kanda son of Prem Chand, resident of House No.39, Ward No.6, Gardhiwala, but with an agreement drawn with him, that the alienee shall be responsible for paying the loan installments, and, besides his sharing the profits, as made from the plying of the machine (supra) rather equally with the victim. However, the aforesaid Tejinder Kanda, the husband of the present bail petitioner, did not comply, with the agreement drawn by him, with respect to machine (supra), hence with the complainant,

rather proceeded to through forging the R.C., of the machine (supra) alienate it to one, Harpinder Singh.

3. The above made allegations squarely, at this stage, do make amenable for inculcation hence the husband of the bail petitioner. However, though the present bail petitioner is not named in the FIR to be sharing any *mens-rea* with her husband, yet it is argued by the learned State counsel qua hers becoming amenable to face inculcation. The above argument becomes rested on the factum, that she had issued cheques to the victim equivalent to the sale proceeds of the machine (supra), which however were investigated to be issued against a bank or against an account, and, which are both alleged to be respectively non existent, and/or, are fabricated.

4. The above made incrimination against the present bail petitioner may not *prima-facie*, at this stage, result in any firm conclusion, that she ever shared any *mens-rea* with respect to the commission of the petition crime, especially when no material has been placed on record by the prosecution, suggestive that, she had in the purported forgery of the R.C., of the vehicle (supra), at the purported instance, of her husband, either collided or connived with him, and, nor when there is any evidence on record suggestive, that she had received the sale proceeds of the machine (supra), into her account.

5. If so, the above incrimination, as drawn against her, at this stage, though may result in separate proceedings becoming drawn against her, but with respect to the petition crime, it cannot be firmly concluded, that she shared any *mens-rea* with her husband qua the petition offence. Moreover, when at this stage no evidence has been adduced by the prosecution, suggestive that in the event of the bail petitioner being enlarged on anticipatory bail, there is every likelihood of hers fleeing from justice, and/or, tampering with prosecution

evidence, thereupon it is not deemed fit to decline relief of pre-arrest bail to the petitioner.

6. In consequence, the present petition is allowed, and, in the event of the arrest of the bail petitioner, the investigating officer may not arrest the bail petitioner, however, subject to hers furnishing personal, and, surety bonds in the sum of Rs.50,000/- each, to the satisfaction of the arresting officer, and, also subject to hers rendering co-operation to him, in the investigations to be carried into the offences mentioned in the present FIR. Moreover, also with an undertaking, that she shall not tamper with prosecution evidence, and, nor shall influence the prosecution witnesses.

7. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from the FIR (supra).

08.07.2022

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**(SURESHWAR THAKUR)
JUDGE**

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No