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

CRM-M-41454-2021 (O&M)
Date of Decision:- 01.8.2022

Poonam Rani .... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Naveen Bawa, Advocate, for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab,
assisted by ASI Deepankar Singh.

Mr. Vishal Sharma, Advocate, for the complainant.

*****

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.129, dated 6.7.2021, Police Station City, District Hoshiarpur, under Sections 420, 406 of IPC.

2. The FIR was lodged at the instance of Anjana Devi, wherein it is alleged that accused Rakesh Kumar Verma in connivance with his mother Anita Rani, brother Rahul Verma and his wife Poonam Rani

had defrauded her for an amount of Rs.6 lakhs on the pretext of sending the complainant and her husband abroad.

2. At the time of issuance of interim bail the following order was passed on 07.2.2022:

> "Case heard via video conferencing.
>
> On 04.10.2021, the following order was passed by this court:-
>
> "Submits inter alia that allegations against the petitioner, who is a woman, are out and out false. Submits further on instructions that in any case the petitioner would be willing to pay up any outstanding dues, if owes against her.
>
> Notice of motion.
>
> On asking of the Court, Mr. B.S. Sewak, Additional Advocate General, Punjab to accept notice on behalf of the respondent-State.
>
> Adjourned to 02.12.2021.
>
> Let the complainant-Anjana Devi be arrayed as respondent No.2 and be notified for the date fixed.
>
> Amended Memo of Parties be filed by Ld. Counsel for the petitioner within three days.
>
> Till then, no coercive steps shall be taken against her."
>
> That order has been continuing since then but with no reply filed by the State so far.
>
> As regards the return of outstanding dues as has been pointed out by learned counsel for the complainant (in terms of the order dated 04.10.2021), learned counsel for the petitioner submits that even the said order records that if any money was due, only then he would be willing to pay it.

Today, learned counsel for the petitioner points out that the complaint initially filed by the son of the present complainant in the FIR, i.e. the complaint filed initially by Gaurav, was to the effect that he and his mother had transferred money to the petitioner on account of the fact that she and her husband, Rakesh Kumar, had sought help from them to construct/buy a house in Hoshiarpur, but with that complaint never having been converted into an FIR, with the opinion of the Deputy District Attorney being that it was a civil dispute.

He submits that thereafter, the story was changed by the mother, i.e. the complainant in the FIR in question, to contend that the petitioner and her husband alongwith other co-accused duped the complainant of money, on the pretext of sending her and her husband abroad.

Though as regards that contention I would agree with learned counsel for the petitioner, but as has been pointed by the learned counsel for the complainant, with a statement having been made initially on the strength of which an interim order was passed in favour of the petitioner, that he would pay the outstanding dues, if the petitioner was found to be owing any such dues to the complainant, counsel has been asked as to when money was transferred to her bank account by the complainant, what explanation he would have for that.

He submits that the said money was on account of the fact that the petitioners' husband was working as a salesman with the complainant and her son.

Very obviously, if that were so, if it was on account of any remuneration due to the petitioner's husband, the money would have been paid into the husbands' account and not that of petitioner.

Adjourned to 28.03.2022, with it directed that since the petitioner has never been directed to join investigation in the first place, she would now join investigation within one week, and if, upon her so joining, she is sought to be arrested, she shall be released on interim bail, upon her furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the next date of hearing.

She shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, she would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this court.

A gazetted officer will file a detailed reply to the petition, with it made clear that oral instructions received by the learned State counsel to the effect that her custodial interrogation is required or not required, shall not be accepted by this court.

The petitioner would also place on record any material to show that the money transferred to the petitioners' account (Rs.3 lakhs as per learned counsel for the complainant), was for what reason.

Any request for an adjournment made by counsel for the petitioner on the next date of hearing would entail immediate vacation of the interim order passed."

3. Learned counsel for the petitioner has submitted that she has falsely been implicated in the present case being wife of Rakesh Kumar Verma as there is some monetary dispute between her husband and complainant's son, so as to pressurize the entire family. Learned

counsel has further submitted that the petitioner in any case in order to prove her bonafides is willing to deposit an amount of Rs.1 lakh within 2 weeks from today.

4. Learned State counsel, upon instructions from ASI Deepankar Singh, has informed that pursuant to interim directions, the petitioner has joined investigation and is not required for custodial interrogation.

5. Learned counsel for the complainant has however, opposed the petition on the ground that out of the amount of Rs.6 lakhs an amount of Rs.3 lakhs was transferred by way of cheque in the petitioner's account and which would clearly show her complicity.

6. I have considered rival submissions addressed before this Court.

7. The other three accused are already on bail. The petitioner otherwise is stated to have joined investigation and is not required for any custodial interrogation. In these circumstances coupled with the fact that the petitioner is a lady, the petition is accepted and the interim directions issued by this Court vide order dated 07.02.2022 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

8. However, the aforesaid directions shall be subject to the condition that the petitioner deposits an amount of Rs.1 lakh before the trial Court within 15 days from today, as has been offered by her today before this Court. Upon such amount being deposited, the trial Court/Illaqa Magistrate shall get the same invested in some FDR in

Nationalized Bank with the specific direction to the Bank Manager concerned not to entertain any request for encashment except an order of the Court. In case, the petitioner is found innocent and is acquitted and such acquittal attains finality, she shall be entitled to the proceeds of the FDR. However, in case she is found guilty and her conviction attains finality, it is the complainant who shall be entitled to the proceeds of such FDR.

01.8.2022 **(GURVINDER SINGH GILL)**
Mohan **JUDGE**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No