

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

CRM-M-46684-2022

Date of Decision: 12.10.2022

Thomas Bhatti

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:-HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr.Ashok Bhardwaj, Advocate for the petitioner

Mr.GS Sandhu, DAG, Punjab

...

ASHOK KUMAR VERMA, J.

The petitioner has approached this Court by filing this petition under Section 438 of the Cr.P.C. for grant of anticipatory bail in FIR No.6 dated 8.1.2022 under Sections 420/409 of the IPC (subsequently Section 409 of the IPC was deleted and Section 408 of the IPC was added during checking of challan), Section 120-B of the IPC and Section 66-D of the IT Act added later on registered at Police Station City Rupnagar, District Rupnagar.

The complainant has been filed by Dr.S.K.Dhawan, M.S. of Dhawan Surgical Centre, Rupnagar against his employee Stephan Bhatti. He alleged that Stephen Bhatti has done online fraud of Rs.10.00 lacs from the two bank accounts of the complainant. Stephan Bhatti had got

transferred some account in his account maintained with the Union Bank of India.

Learned counsel for the petitioner, *inter alia*, submits that the petitioner is sought to be implicated only on the basis that she is mother of Stephan Bhatti. The petitioner had never worked in the hospital and as such she has nothing to do with the offence as alleged in the FIR. Learned counsel further submits that nothing is to be recovered from the petitioner and thus no custodial interrogation is required.

On the contrary, learned counsel for the State submits that co-accused Stephan Bhatti has suffered a disclosure statement wherein he has specifically stated that petitioner has purchased some gold ornaments and has also made the payment of the education fee of his sister, namely, Liza. Learned counsel submits that the petitioner alongwith other co-accused have committed serious offence and a huge amount is involved in this case which is yet to be recovered. Learned counsel for the State also submits that the investigation is at initial stage and recovery is yet to be effected from the petitioner and as such custodial interrogation of the petitioner is necessary for finding out the *modus operandi* of commission of offence.

Having heard learned counsel for the parties, I am of the considered opinion that there are serious allegations of fraud and misappropriation of hefty amount and there is prima facie involvement of the petitioner in the commission of offence in collusion with other accused persons. During investigation, the name of the petitioner was disclosed by her own son that the petitioner has purchased gold ornaments and has also made the payment of education fee of his daughter, namely, Liza. A hefty amount is involved which is yet to be recovered. Such act and conduct is

required to be viewed with all seriousness. In this view of the matter, I do not deem it a fit case for grant of concession of anticipatory bail to the petitioner. The petitioner's custodial interrogation is necessary for complete and effective investigation. In case the same is denied to the investigating agency, it would leave many gaps and loopholes, adversely affecting the investigation, which is uncalled for. Moreover, investigation is at initial stage.

It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in **State Vs. Anil Sharma, (1997) 7 SCC 187** held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

In view of the discussion made above, the present petition being devoid of any merit is dismissed. Nothing said herein above shall be construed as an expression of opinion on the merits of the case.

(ASHOK KUMAR VERMA)
JUDGE

12.10.2022
MFK

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>