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

**CRM-M No. 49907 of 2022**
**Date of decision : November 21, 2022**

**Gurpreet Kaur**

**...... Petitioner**

**Versus**

**Union Territory, Chandigarh and others**

**...... Respondents**

**CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN**

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Present :-Mr. Nandan Jindal, Advocate and
Mr. Abhinandan Jindal, Advocate
for the petitioners.

Mr. Deepinder Brar, Addl.P.P.U.T.,Chandigarh

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**PANKAJ JAIN, J. (ORAL)**

Apprehending her arrest in FIR No.89 dated 25.5.2022, registered for offences punishable under Sections 409, 420,468,471 and 120-B IPC, 1860 registered at Police Station Industrial Area, Chandigarh, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Status report by way of an affidavit of Niyati Mittal, Deputy Superintendent of Police, Economic Offences Wing, U.T.,Chandigarh has been filed in Court today. The same is taken on record.

Learned counsel for the petitioner has argued that infact the documents of the petitioner have been misused by Varinder Singh who earlier had business dealings with the husband of the petitioner. He further submits that after availing loan of Rs. 20 lacs under the scheme of Pardhan Mantri Mudra Yojna Loan. The allegation is that the amount got siphoned off. He asserts that even as per the FIR no part of the said amount could be traced to the petitioner and infact there are transactions showing that the loan so availed by misusing the name of the petitioner was transferred to the account of Ravinder Kaur and thereafter to the account of another Gurpreet Kaur who happens to be the daughter of Ravinder Kaur. He further refers to Annexure R-3 to show that the amount was transferred through RTGS without there being any signatures on the cheque.

Per contra, Mr. Deepinder Brar, Addl. P.P.U.T.,Chandigarh submits that the matter is under investigation and allegation against the petitioner is that the loan facility was misused by the petitioner claiming herself to be proprietor of M/s Punjab Traders and later on it was found that there is no such concern. He submits that the fraud is deep routed as the bank officials are also hand in glove with the fraudsters.

I have heard Learned Counsel for the parties and have gone through the records of the case.

On 17.11.2022 learned counsel for the petitioner representing the State was asked to find out the bank account opening form to ascertain as to who introduced and verified Gurpreet Kaur-petitioner on whose name such account was opened. Mr. Brar today on instructions from Inspector Satvinder Singh Chopra submits that no such account opening form could be traced in the records maintained by the bank and respondent No.3 is also suspected to have been signed using disappearing ink. .

As per the allegations levelled in the FIR it has been alleged that loan scheme has been misused. The conspiracy involves bank officials.

As per settled law petitioner is required to make out a special case for invoking jurisdiction under Section 438 Cr.P.C. In **Gurbaksh Singh Sibbia Vs. State of Punjab, 1980(2) SCC 565**, Apex Court has held that :-

> "*..That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail....*"

As per the law laid down in **C.B.I vs. Anil Sharma, 1997(7) 187** there is a qualitative difference between custodial interrogation and questioning a person insulated by pre-arrest bail.

Keeping in view the seriousness of the allegations levelled in the FIR and the fact that the investigation is at a nascent stage and the same cannot be derailed and belayed at this stage by granting relief of pre-arrest bail to the petitioner. No ground for grant of anticipatory bail is made out.

Consequently, the present petition stands dismissed.

Needless to say nothing recorded hereinabove should be construed as an expression on merits of the case.

**( PANKAJ JAIN )**
**JUDGE**

**November 21, 2022**
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Whether speaking/reasoned Yes
Whether Reportable : No