

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

CRM-M-51846-2022
Date of decision : 11.11.2022

Anjana

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Amit Choudahry, Advocate for the petitioner.

Mr.G.S.Sandhu, DAG, Punjab

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.237 dated 13.10.2022 registered under Sections 408, 420 and 120-B of the Indian Penal Code, 1860 at Police Station Sadar Fazilka, District Fazilka.

As per prosecution, the complainant-Dharamveer Wadhera running a motorcycle agency in the name of M/s Vadhera Motors, Mandi Ladhu Ka for the last 14 years. The petitioner was working in his agency as Computer Operator for the last 10 years and she used to handle the work of registration certificate and Insurance of the vehicles. Prior to this job, the petitioner working at M/s Setia Motors with Sandeep Setia. The petitioner along with co-accused Sandeep Setia operating the current account of the firm of the complainant bearing No.50200028164531 and have been making payments for the purpose of preparing registration certificates and insurance of the vehicles sold at the agency of Sandeep Setia. The petitioner along with co-accused Sandeep Setia caused financial

loss of Rs.5/6 lacs to the complainant. When the complainant managing his account, he came to know about the embezzlement committed by the petitioner. The petitioner left the job of the complainant 15 days prior to the registration of present FIR. The custodial interrogation of the petitioner is required for thorough investigation of the case and for recovery of amount of Rs.5,00,000/-.

Notice of motion.

On the asking of the Court, Mr. Gurpreet Singh Sandhu, D.A.G., Punjab, who is present in the Court accepts notice on behalf of the respondent-State.

At this stage, Ms. Riffi Birla, Advocate has put in appearance on behalf of the complainant and filed her power of attorney in the Court which is taken on record.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. The petitioner has not prepared any forged registration certificate and has not done any forged signatures of the complainant. Neither any amount has been transferred in the account of the petitioner nor the petitioner withdrew any cash amount from the account of the complainant. For making payment for preparing of registration certificate and insurance of the vehicle sold, an OTP is received on the mobile phone number of the holder of the account and without that OTP, no payment can be made. The present FIR is nothing but just a counter-blast to the complaint case filed by the petitioner under Section 354 of the IPC against the complainant. The petitioner is a pregnant lady and expected date of her delivery is in the month of December, 2022. Nothing is to be recovered from the possession of the petitioner, therefore, her custodial interrogation is not required. The petitioner is already ready and

willing to join the investigation.

On the other hand, learned State counsel assisted by learned counsel for the complainant opposes the present petition on the ground that the petitioner alongwith co-accused Sandeep Setia has committed a fraud amounting to Rs.5/6 lacs with the complainant.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. The recovery of hefty amount is yet to be effected. Moreover, the investigation is still going on, and therefore, her custodial interrogation is necessary for finding out the modus operandi of commission of the offence. .

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. This view of mine finds support from the judgment of Hon'ble Supreme Court in Madhya Pradesh Vs. Pradeep Sharma, (2014) 2 SCC 171.

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

(ASHOK KUMAR VERMA)
JUDGE

11.11.2022
MFK

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No