

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

CRM-M-52017-2022

Date of Decision: 14.11.2022

Sarabjit Kaur

... Petitioner

Versus

State of Punjab

... Respondent

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

Present: Mr.Ramnish Puri, Advocate for the petitioner

Mr.GS Sandhu, DAG, Punjab

Mr.Ritesh Pandey, Advocate for complainant

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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.117 dated 27.9.2022 under Sections 420, 120-B of the IPC registered at Police Station Kathunangal, District Amritsar.

Notice of motion.

On the asking of this Court, Mr. GS Sandhu, DAG, Punjab accepts notice on behalf of the respondent-State. At this stage, Mr. Ritesh Pandey, Advocate appears and files Vakalatnama on behalf of the complainant.

It is alleged in the complaint moved by the complainant-Harpreet Singh against Arshdeep Singh and Sarabjit Kaur that the accused persons agreed to send the complainant and his wife to France in a sum of Rs.17.00 lacs and as such he transferred the money in the bank account of accused. Thereafter accused persons started delaying the matter

on one pretext or the other. Accused persons also stopped to receive his phone calls. It is alleged that accused persons in connivance with each other have cheated the complainant.

Learned counsel for the petitioner, *inter alia*, submits that the petitioner is being dragged in the present case without any connecting evidence against her. The petitioner is sought to be implicated only on the basis that the amount has been transferred into the account of her son. 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 assisted by the learned counsel for the complainant 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 submits that in the FIR, there is specific allegation against the petitioner that after the transfer of Rs.8.00 lakhs from the account of complainant Harpreet Singh into the account of petitioner's son- Arshdeep Singh, even then his mother Sarabjeet Kaur called the complainant at her home and gave the photocopy of the visa and demanded Rs.4.00 lakhs on the pretext of getting the ticket issued. Upon this, on 25.2.2022, the complainant deposited Rs.2.00 lakhs in the account of son of the petitioner and further a sum of Rs.2.00 lakhs have been deposited in the account of petitioner's son. Learned counsel submits that it has been found that petitioner's son and the petitioner in connivance with each other defrauded the complainant to the tune of Rs.12,35,000/-. The investigation is at initial stage and recovery is yet to be effected from the accused persons 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 chain of events and persons in the commission of offence, as per prosecution story. The petitioner has been specifically named in the FIR and there are specific allegations against the petitioner that on her asking the complainant deposited the aforesaid amount in the account of her son. There are serious allegations of cheating and fraud and prima facie involvement of the petitioner in the commission of offence in connivance with other co-accused is writ large. Recovery is yet to be made. 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.

Needless to say, such type of cheating, duping and fraud is rampant in our society and is often adopted by fraudsters and unscrupulous persons on pretext of sending innocent people abroad and thereby duping them. This has become a cakewalk to amass wealth illegally over night which needs to be curbed with an iron hand to save the innocent people.

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.**

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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

14.11.2022
MFK

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No