

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

107

CRM-M-2615-2023
Date of decision : 18.01.2023

Pinki DeviPetitioner

Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Prateek Rathee, Advocate
for the petitioner.

Mr. Munish Sharma, Asstt. A.G., Haryana
for the respondent-State.

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.439 dated 27.12.2022 registered under Sections 409, 420 and 34 of the Indian Penal Code, 1860 at Police Station Kasola, Rewari.

The above-said FIR was registered on a complaint made by BDPO, Dharuhera alleging misappropriation of panchayat funds. It is also alleged that as per the report of SDO, Bawal, Pinki Devi, Sarpanch of Village Lodha, her husband-Nawal Singh, Vinod Kumar, Sarpanch of Village Sangwari, Gram Sachiv Sanjay Kumar, Gram Sachiv Ajay Kumar, one bank official, Yash Industries, Jain Hardware, Rewari, Jain Pipe Store, Rewari, Tanmay Engineering, Bhiwadi Solar & Marketing India Pvt. Ltd. by conspiring with each other caused a loss of Rs.52,60,000/- to Gram Panchayat Lodha.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. There is a delay of 02 years in lodging of the FIR. The petitioner had not signed any cheque and all the cheques were invalid itself as the same does not bear the original signature of the petitioner. The petitioner was not present at the time of incident in the village as she was living in her parental house. The alleged embezzlement was done by her husband- Nawal Singh and Vinod, Sarpanch of Village Sangwari and when she came to know about the same, she made a detailed complaint to the higher authorities. No offence is made out against the petitioner. All the evidences are documentary in nature. Nothing is to be recovered from the petitioner and her custodial interrogation is not required in the case. The petitioner is also ready and willing to join investigation. Therefore, the petitioner may be granted anticipatory bail.

Notice of motion.

On the asking of the Court, Mr. Munish Sharma, Asstt. A.G., Haryana, who is present in the Court, accepts notice on behalf of the respondent-State and opposed the present petition on the ground that the petitioner along with her co-accused have caused a loss of Rs.52,60,000/- to the Gram Panchayat Lodha. For through investigation of the case and for recovery of embezzled amount custodial interrogation of the petitioner is required. Therefore, the present petition may be dismissed.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature.

Furthermore, investigation is still going on in the present case. For

thorough investigation of the case, recovery of embezzled amount and for finding out the modus operandi of commission of offence, the custodial interrogation of the petitioner is necessary. 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.”

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

18.01.2023

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(ASHOK KUMAR VERMA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No