

210

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

CRM-M-2808-2023

Date of Decision: 13.03.2023

Sunaina Kamal

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Aarish Kamboj, Advocate for
Mr. Tajinder Pal Singh Makkar, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail in case FIR No.0159 dated 10.08.2022, under Sections 406, 420, 120-B of the Indian Penal Code, 1860 and Section 13 of the Punjab Travel Professionals (Regulation) Act, 2014, registered at Police Phase-1, District SAS Nagar (Annexure P-1).

On 19.01.2023 the following order was passed by this Court :-

“Prayer in this petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, in case FIR No.0159 dated 10.08.2022, registered under Sections 406, 420, 120-B of the Indian Penal Code, 1860, and Section 13 of the Punjab Travel Professionals (Regulation) Act, 2014, registered at Police Phase-1, District SAS Nagar (Annexure P-1).

Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the case. He further submits that the petitioner was an employee of the Immigration Firm namely International Immigration Phase-5, Mohali, which was owned by co-accused Baljinder Kaur and Rehan Malik and the amount, if any, was taken from the

complainant, the same was taken by co-accused Rehan Malik and Ajay Maurya. Learned counsel further submits that the petitioner has no concern with the alleged cheating as she was working as mere a councilor with the above said firm and some amount was recoverable from the said firm by the petitioner. The amount of Rs.one lakh was deposited into the account of the petitioner by co-accused Rehan Malik by saying that he is depositing Rs.one lakh into her account from some other account. It is stated that the moment, the petitioner came to know regarding the alleged fraud with the complainant then she immediately returned the said amount of Rs.one lakh and in this regard, a writing/receipt dated 03.11.2018 (Annexure P-2) was also executed by the complainant in favour of the petitioner. He also submits that the bail application moved by co-accused of the petitioner namely, Ramandeep Singh, who was named in the FIR, has been allowed by the learned Additional Sessions Judge, SAS Nagar, vide order dated 09.11.2022 (Annexure P-4) whereas, the application moved by the present petitioner under Section 438 of the Code of Criminal Procedure, has wrongly been dismissed by learned Additional Sessions Judge, SAS Nagar, vide order dated 21.12.2022 (Annexure P-3). It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency.

Notice of motion.

On the asking of the Court, Mr. Vinay Kumar Gupta, Assistant Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State and opposes the petitioner's prayer for bail on the ground that she along with her other co-accused had duped the complainant of Rs.10,35,000/- on the pretext of sending him and his family abroad. However, he has not disputed the fact that another co-accused namely Ramandeep Singh has already been granted bail vide order dated 09.11.2022 (annexure P-4) passed by learned Additional Sessions Judge, SAS Nagar.

List on 13.03.2023.

In the meanwhile, in the event of arrest of the petitioner, she shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer. However, she shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

A copy of the complete paper book be supplied to learned State counsel by the learned counsel for the petitioner during course of the day."

Learned counsel for the petitioner submits that pursuant to the

aforesaid order, the petitioner has joined the investigation.

Learned State counsel on instructions from ASI Krishan Chand has not disputed the aforesaid fact of joining of investigation by the petitioner and submits that her custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and her custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 19.01.2023 passed by this Court is made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

It is made clear that if the petitioner fails to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.

The petition is accordingly disposed of.

13.03.2023

Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No