IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-7743-2023
Reserved on: 21.02.2023
Pronounced on: 01.03.2023

Kiran Gupta ...Petitioner

Versus

UT Chandigarh …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. B.S. Chauhan, Advocate for the petitioner.

Mr. Abhinav Gupta, APP, UT Chandigarh.

Mr. Ruhani Chadha, Advocate for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
3	02.01.2023	Mauli Jagran, UT Chandigarh	419, 420, 467, 468, 471, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above on the allegations of cheating the complainant under the pretext of opening a bank account for her, and after that getting a personal loan of Rs. 5 lacs sanctioned in her favour by tendering fake treasury slip disclosing the complainant as an employee of Punjab Vidhan Sabha, and after that withdrawing the amount, has come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. In paragraph 19 of the bail petition, the accused declares that he has no criminal antecedents.

3. Petitioner’s counsel argued that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. State’s counsel opposes the bail. While opposing the bail, the complainant's counsel handed over a similar complaint filed against the petitioner and her husband on April 27, 2022 by one Raj Kumari Verma.

REASONING:

5. The facts are being extracted from the status report filed by the concerned DySP, and paragraphs 2 to 5 read as follows:

"2. That the present FIR was registered on the complaint made by Rekha Rani wife of Karamvir Singh (hereinafter referred as complainant) dated 16.12.2021 wherein it has been alleged that Kiran Gupta, who was on visiting terms with the complainant came along with her brother-in-law Jaiparkash at the house of complainant and told her that she will get her children's bank accounts opened in SBI. Next day, Kiran Gupta alongwith her husband Satyaprakash took the complainant to SBI, Manimajra where she was asked to sign on some papers in English. Complainant asked them that she is illiterate and cannot sign in English. Thereafter, Kiran Gupta Took signature of complainant on one blank paper in English and also took complainant's Aadhaar Card, ATM Card and SIM. She also took 6 cheques of Cooperative Bank & 2 cheques of SBI Bank from the complainant. Later on, one bank official visited the complainant and told her that her EMI is due towards loan, upon which complainant came to know that Kiran Gupta and her husband Satyaparksh have taken a loan of Rs. 5 lac in the name of complainant and have even misused the cheques of the complainant. Thus, prayed for legal action against them. Hence, the present FIR.

3. That till date, during the course of investigation it has transpired that an account with State Bank of India (SBI) bearing No. 40369057563 in the name of complainant was got opened by the petitioner-accused and her husband. That while getting the account opened the signatures of the complainant were obtained on some blank papers and said documents were misused to get a personal loan sanctioned to the tune of Rs. 5 Lac from Axis Bank, Sector-34 Branch, Chandigarh. While getting the loan sanctioned the complainant was shown to be an employee in Punjab Vidhan Sabha by submitting forged pay slip. That during the course of investigation, in response to a notice under section 91 Cr.P.C. the officials of the Vidhan Sabha informed that there is no employee in the name of Rekha Rani working in Punjab Vidhan Sabha

4. That with the loan application form an account statement allegedly issued by SBI was also attached wherein it was shown that complainant was receiving salary of approx Rs. 74000/- from Punjab Treasury. During investigation the account statement allegedly belonging to Account No. 40369057563 issued by SBI in the name of Rekha Rani given to Axis Bank for the purpose of issuing personal loan was got verified and it transpired that the same is also forged.

5. As per the actual account statement, the loan issued by Axis Bank was received by transfer in aforesaid SBI account, from which an amount of Rs. 2 lacs were withdrawn in cash by using cheque No. 645242 & 645243 by co-accused (husband of the petitioner) and approximately Rs. 1,32,000/- was withdrawn in cash through ATM and Rs. 1,49,000/- was transferred in the name of one Dharamvir Singh. As per the complainant the cheque book issued by SBI, ATM Card, Aadhaar Card & SIM Card are in possession of the petitioner and her co-accused."

6. Another similar crime has been brought to the notice to which the petitioner's counsel could not offer any satisfactory explanation. The sly way the petitioner took advantage of the complainant's simplicity and lack of education, and cheated her, firstly, by getting a loan sanctioned in her favour by fabricating documents, and after that withdrawing such amount, points out the dangerous trend of the revival of thugee by revisiting the history. Thus, given the allegations' nature and the offense's gravity, despite being a woman, the petitioner is not entitled to anticipatory bail, and the custodial interrogation is required to recover the money and to find out the

involvement of other persons, if any. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

7. In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Hon'ble Supreme Court holds,

> [19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India v. PadamNarain Aggarwal (2008) 13 SCC 305].

8. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Hon'ble Supreme Court holds,

> [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 favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he 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 task of disinterring offences would not conduct themselves as offenders.

9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage.

10. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

01.03.2023
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.