2023:PHHC:050321

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

CRM-M-15618 of 2023
Date of decision: 11.04.2023

Harpreet Kaur

......Petitioner

Versus

State of Punjab

......Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Naveen Bawa, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.104 dated 09.03.2023 under Sections 406, 420 IPC, registered at Police Station Division No.7, District Ludhiana.

2. Present FIR has been registered on the basis of the complaint made by complainants Vijay Kumar Sachdeva and others alleging therein that the complainants started committee /chit fund with the petitioner and her son Sukhmani and at that time, the petitioner took blank cheques from each of the complainant as security. The petitioner collected amounts of the committee from the complainants regularly but when the payment of committee was to be made by the petitioner to

the complainants, then she started harassing them as she had falsely assured them that she will make the payment to them within a short span of time. When the complainants jointly demanded their money from the petitioner, then she moved false complaint at P.S. Division No.7, Ludhiana in order to implicate the complainants in some false case. After that, complaint was made by the complainants against the petitioner with the Economic Offences Wing through the Commissioner of Police and as a result thereof, petitioner had appeared before the EO Wing and stated that she will bring the register maintained by her with regard to the collection of committee amounts and when she was asked about security cheques received from the complainants, she completely stepped back and stated that she is not having any cheques of anybody. Subsequently, the petitioner was called many times at EO Wing, but she did not turn up, rather in order to involve the complainants in litigation, she presented the cheque amounting to Rs.2,75,000/- belonging to complainant Vijay Kumar Sachdeva and cheque amounting to Rs.4,10,000/- belonging to complainant Preeti Sharma on 12.10.2022.

3. Learned counsel for the petitioner contended that petitioner is innocent and has been falsely implicated in the present case. He further submitted that nothing is to be paid by the petitioner to the complainants inasmuch as there is no detail of the amount paid by the complainants to the petitioner as committees. He further submitted that if the allegations made in the FIR are accepted on its face value,

even then no criminal offence is made out against the petitioner and a civil dispute has been given criminal colour. He further submitted that petitioner is not involved in any other case and she is ready and willing to join the investigation.

4. Per Contra, learned State counsel, who appears on receipt of advance copy of the paperbook, has opposed the prayer for grant of anticipatory bail. On instructions from Investigating Officer, learned State counsel submitted that petitioner has taken Rs.15,62,000/- from 12 persons. He submitted that to recover the defrauded amount, custodial interrogation of the petitioner is necessary.

5. I have heard learned counsel for the parties and perused the record.

6. On the last date of hearing, learned counsel for the petitioner had sought time to get instructions as to whether petitioner was ready to settle the dispute with the complainants/victims. However, today he has shown his inability to settle the dispute by returning the amount.

7. Earlier, the petitioner filed bail application before the Court of learned Additional Sessions Judge, Ludhiana, which has been dismissed vide order dated 17.03.2023 by recording following findings:

> *"6. As per version of the prosecution case, the FIR has been registered on the basis of the complaint made by complainants Vijay Kumar Sachdeva and others, wherein it has been alleged that the complainants started committee /chit fund with the applicant-accused and her*

son Sukhmani and at that time, the applicant took blank cheques from each of the complainant as security. The applicant-accused collected amounts of the committee from the complainants regularly, but when the payment of committee was to be made by the applicant-accused to the complainants, then she started harassing them as she had falsely assured them that she will make the payment to them within a short span of time. When the complainants jointly demanded their money from applicant-accused, then she moved false complaint at P.S. Division No.7, Ludhiana in order to implicate the complainants in some false case. After that, complaint was made by the complainants against the applicant-accused with the EO Wing through the Commissioner of Police and as a result thereof, applicant-accused had appeared before the EO Wing and stated that she will bring the register maintained by her with regard to the collection of committee amounts and when she was asked about security cheques received from the complainants, she completely stepped back and stated that she is not having any cheques of anybody. Subsequently, the applicant-accused was called many times at EO Wing, but she did not turn up, rather in order to involve the complainants in litigation, she presented the cheque amounting to Rs.2,75,000/- belonging to complainant Vijay Kumar Sachdeva and cheque amounting to Rs.4,10,000/- belonging to complainant Preeti Sharma on 12.10.2022.

7- Though the applicant-accused as per the counsel for the applicant, has already filed complaints under section 138 of the Negotiable Instruments Act against two of the complainants, but perusal of the file shows that at this stage, there are 12 victims in the case, with whom, fraud is *alleged to have been committed by the applicant-accused and it is specific case of the prosecution that some other frauds committed by the applicant-accused may come to the light during her custodial interrogation and hence, filing of complaints under section 138 of the Negotiable Instrument Act against twocomplainants is not going to dilute the allegations against the applicant-accused. It is not between two individuals, rather it involve number of persons. No enmity against other complainants has been alleged by the applicant-accused and hence, even if the complaint under section 138 of the Negotiable Instruments Act is filed against two persons, does not make the entire allegations untrustworthy. Prior to the registration of the FIR, the matter in dispute had been inquired in detail and it came out during inquiry that the complainants were members of the committee being run by the applicant-accused and they were paying the committee amount to the applicant regularly, however, she failed to make payment of committee amount to the complainants at relevant time. In this way, the applicant seems to have played fraud with the complainants in a very clever manner and she is alleged to have misappropriated huge amount of money. This will show the dishonest intentions of the applicant. When the entire allegations taken together, it clearly make out the part played by the applicant in the incident.*

8. The provisions of section 438 of the Criminal Procedure Code are in the nature of an exception to general rule that an investigating agency must be given a free reign to arrive at the truth. The law is well settled that the provisions contained in Section 438, Criminal Procedure Code, relating to anticipatory bail are to be sparingly invoked and not in routine. Reference here can

> *be made to the judgment in case of Sachin @ Sachin Ahuja Vs. State of Haryana 2022 (4) RCR Criminal 968.*
>
> *9. Consequently, the applicant-accused is not entitled to concession of anticipatory bail and hence, the bail application is dismissed."*

8. From the perusal of above order it transpires that prior to registration of the present FIR, a detailed inquiry was conducted and during inquiry it was revealed that complainants were members of the committee being run by the petitioner and they were paying the committee amount to the petitioner regularly, however, petitioner did not make payment of the amount to the complainants and she has played fraud with the complainants.

9. As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

10. Reliance can be placed upon the Hon'ble Supreme Court dictum passed in ***Prem Shankar Prasad v. The State of Bihar and another, 2021(4) RCR (Crl.) 598*** and ***Anil Kumar Singh v. High Court of Judicature at Patna through its Registrar General and another, (2020)19 Supreme Court Cases 364*** whereby the Hon'ble

Apex Court had denied the concession of anticipatory bail in view of the gravity of offences and the conduct of the petitioner.

11. In view of the above, petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is dismissed.

(NAMIT KUMAR)
JUDGE

11.04.2023
R.S.

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No