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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22724-2023
Date of decision : 25.08.2023

Kavita Mehra ...... Petitioner

versus

State of Haryana ...... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Tanvir S. Grewal, Advocate for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

Mr. Sandeep Kumar Rana, Advocate for the complainant.

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PANKAJ JAIN, J. (Oral)

While issuing notice of motion, following order was passed on 05.05.2023:-

> "1. Petitioner (Kavita Mehra) has filed the present petition under Section 438 of the Code of Criminal Procedure seeking grant of anticipatory bail in case FIR No.43 dated 02.02.2023 (Annexure P-1), under Sections 406, 420 and 506 (added later on) of the Indian Penal Code, registered at Police Station Ladwa, District Kurukshetra, Haryana.
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> 2. Succinctly, the aforesaid FIR was registered on the complaint of one Iqbal Ali s/o Irshad Ali, who is a shopkeeper. It was stated therein that in the month of April, 2021, the complainant met one Ramdas s/o Jagdish and with the passage of time, they developed friendly relations; and the said Ramdas as well as his wife, namely Nimbo Devi, used to visit

the house of complainant. Thereafter, due to outbreak of Covid-19 pandemic, complainant's work came to a complete halt and at that point of time, Ramdas asked the complainant to start doing the cryptocurrency work. Ramdas further told the complainant that he along with one Karambir Singh had started a company which deals in sending abroad, crypto and forex trading, share market and property dealing and they have also set up a crypto and forex Office at Dubai. Thereafter one day, Karambir, Kavita (wife of Karambir), Sahil (son of Karambir), Ramdas, Nimbo Devi and Deepak Chauhan visited the house of complainant and started painting a rosy picture by saying that their company return three times the money within two years and any amounts exceeding Rs.15,00,000/- is tripled by them within six months itself. They further told that they also provide training in Dubai and provide opportunities to earn lakhs of rupees as well as chance to visit abroad and stay there. After getting influenced by the aforesaid persons, the complainant made a total transaction of Rs.13,00,000/- on various dates from his family members' accounts, and the said amount was got transferred to the bank account of aforesaid Karambir Singh on 06.10.2021. Thereafter again on 06.10.2021, an amount of Rs.2,00,000/- was transferred from complainant's father account to Irshad Ali's account. Moreover, one of the petitioner's friend-Sanjiv's wife, namely Kajal, also transferred an amount of Rs.4,00,000/- to Ramdas's bank account. It is stated that Deepak Chauhan, Ramdas and Karambir fraudulently opened some trading accounts from PEX LIMITED in the names of complainant party. It is further stated that the accused persons also took an amount of Rs.5,000/- for getting the complainant's passport ready. However, neither the accused persons gave the passport of complainant nor they returned the money and when the complainant started asking for the same, they used to change the subject by saying that there is some technical fault in company's software. They also started threatening the complainant by stating that they will get complainant's family involved in false cases as they have links with higher police officials. Thereafter, the complainant found out that the address on which FX Trade One Company has been registered is a fake address and no such office actually exists. In this manner, the aforesaid six accused persons have made a Chit Fund Company and they have saved crores of rupees. Now they are ready to run away to a foreign country. As per letter No.2021-2022/1600 dated 03.02.2022 of the Reserve Bank of India, any form of advertising of Forex Trading is completely prohibited because under the garb of Forex trading, frauds of crores of rupees are happening across various states.

3. Learned counsel for the petitioner contends inter alia that the petitioner is 70% physically disabled lady, due to polio, and she is working on a clerical post in Haryana Government. The Identity Card of Persons with Disabilities issued to petitioner by the Government of Haryana (Annexure P-2) and Medical Certificate issued by the authorized Medical Officer to the said effect (Annexure P-3) are annexed with the present petition. It is submitted that the petitioner has been falsely implicated in the

FIR (Annexure P-1) as her name was initially not mentioned in the instant case. It is stated that she has no relation with the alleged transactions in question and moreover, the complainant has widened the net of false implications to incriminate the entire family of petitioner, including his son, along with his husband, namely Karambir Singh (co-accused), against whom false implications of money transactions have also been levelled by the complainant. It is submitted that in the FIR, no specific role has been attributed to the petitioner nor any money has been stated to be transferred to her bank account. It is contended that one Nushad Ali (complainant's brother), has lodged a similar FIR No.17 dated 19.01.2023 (Annexure P-5), under Section 406 and 420 of the Indian Penal Code, at the same Police Station Ladwa, District Kurukshetra against four other persons. A perusal of the said FIR would reveal that identical allegations have been levelled against the different set of accused therein as well. In fact, the aforesaid Nushad Ali is the mastermind behind these false implications. It is pertinent to mention here that the complainant party in FIR No.17 dated 19.01.2023 (Annexure P-5) has entered into a compromise with the accused persons therein and a quashing petition being CRM-M-18327-2023 has also been filed before this Court, wherein the parties have been directed to appear before the trial Court/Illaqa Magistrate with regard to recording of their statements in respect of the compromise arrived at between them, vide order dated 17.04.2023 (Annexure P-6). It is submitted that in the instant case as well, the complainant party is constantly contacting and pressurising the petitioner and other accused persons to enter into a compromise and get the instant FIR quashed.

4. Learned counsel for the petitioner states that the anticipatory bail application moved by the petitioner before the Court of Additional Sessions Judge, Kurukshetra, has wrongly been dismissed, vide order dated 02.05.2023. Learned counsel submits that the petitioner is ready and willing to join the investigation as and when required by the Investigating Agency or as directed by this Court/trial Court.

5. Notice of motion.

6. At the asking of Court, Mr. Ram Kumar Singla, Deputy Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondent/State. He prays for an accommodation to seek instructions and assist the Court in this matter.

7. At this stage, Mr. Sandeep Kumar Rana, Advocate appears and files Memorandum of Appearance on behalf of the complainant in Court today, which is taken on record, subject to all just exceptions. He prays for an accommodation to seek instructions and make submissions in the matter.

8. List on 03.07.2023.

9. Without commenting anything on the merits of the case, petitioner is directed to join the investigation as and when directed by the investigating agency. In the meantime, in the event of arrest of petitioner, she shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer and the petitioner shall abide by the terms and conditions laid down under Section 438(2) of the Code of Criminal Procedure."

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2. Today, Mr. Sehrawat submits that though the petitioner has joined investigation, but there are more cases pending against her.

3. Counsel for the petitioner relies upon order dated 18.08.2023 passed in CRM-M-32608-2023, whereby while granting regular bail to co-accused in the same FIR, this Court observed as under:-

> "4. Counsel for the petitioner contends that the petitioner has been booked for offences punishable under Sections 406, 420, 506 IPC, 1860 in FIR dated 2nd of February, 2023 (Annexure P-1) wherein the complainant has alleged that he has been allured to part-way with the money out of which Rs.6.00 lacs was transferred to the account of the petitioner. Prior thereto, the complainant himself preferred complaint under Section 138 of the Negotiable Instrument Act, 1881 against the petitioner qua the same amount of Rs.6.00 lacs which was transferred to the petitioner and form subject matter of FIR claiming that on account of cordial relations he extended friendly loan. Thus FIR is nothing but an abuse of process of law. The petitioner has already suffered incarceration for more than 4 months and 01 days.
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> 5. Counsel representing the complainant however opposes the grant of bail to the petitioner and submits that infact the petitioner is a member of Syndicate who with an intent to dupe the innocent people show them dreams of doubling the amount of their money. However, counsel for the complainant is not in position to dispute the fact that in complaint filed under Section 138 of the N.I. Act the complainant himself alleged that the amount was

> extended as friendly loan and complainat under Section 138 of the N.I Act (Annexure P-2) is prior in time to the FIR registered against the petitioner.
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> 6. I have heard counsel for the parties and have gone through records of the case.
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> 7. Without commenting on the merits of the case, keeping in view the incarceration already suffered by the petitioner, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned."

4. Keeping in view the aforesaid facts and the fact that in the complaint filed under Section 138 of the Negotiable Instruments Act against co-accused Ram Dass, the complainant has taken altogether different stand that the one that has been taken in this FIR.

5. In view of above, the interim order dated 05.05.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

6. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

7. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

8. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in

case the occasion arises.

9. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

10. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

11. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

25.08.2023
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Whether speaking/reasoned : Yes

Whether Reportable : No