

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CRM-M-23478-2023

Date of Decision : 09.05.2023

Sakshi Dutta

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present : Mr. Munish Garg, Advocate for the petitioner.

ASHOK KUMAR VERMA, J. (ORAL)

1. 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.130 dated 31.03.2023 registered under Sections 420 and 120-B of the Indian Penal Code, 1860 at Police Station City Barnala, District Barnala.

2. The above-said FIR was registered on the complaint made by Amandeep Sharma alleging that her marriage was solemnized with Sehlja Rani in the year 2009. In the year 2009, he met with an accident and received injury in his head. His wife is running beauty parlor along with Sakshi Dutta (the petitioner) wife of Rahul Sharma. By taking undue advantage of his mental illness and in order to grab his property, his wife entered into conspiracy with Rahul Sharma and his wife Sakshi Dutta (the petitioner) and got transferred his Koti in the name of Rahul Sharma by way of executing forged sale deed after taking him to Court Complex, Barnala. The value of the property was Rs.50,00,000/- in the year 2019, whereas in the sale deed, the value of the said property is

mentioned as Rs.5,50,000/-. No amount was received by him in his account.

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The petitioner is not the seller or purchaser of the house in question. The sale deed was executed between the husband of the petitioner and wife of the complainant. No role has been attributed to the petitioner. There is also undue and unreasonable delay of more than 03 years in lodging of the present FIR. The entire dispute is purely of civil nature which has been given a criminal colour. The petitioner is having two minor children out of which one is breast feeding. Nothing is to be recovered from the petitioner and her custodial interrogation is not required in the case. The petitioner is already ready and willing to join the investigation.

4. Notice of motion.

5. On the asking of the Court, Mr. Munish Sharma, Asstt. A.G., Haryana, who is present in the Court, has accepted notice on behalf of the respondent-State and vehemently opposed the present petition on the grounds that the petitioner along with her husband in connivance with wife of the complainant got the forged sale deed executed in favour of the husband of the petitioner. During investigation it was found that at the time of issuance of alleged cheque of Rs.5,50,000/-, there was only an amount of Rs.1,000/- in the account of the petitioner and her husband. For through investigation of the case

custodial interrogation of the petitioner is required. Therefore, the present petition may be dismissed.

6. Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. As per the prosecution, by taking undue advantage of mental illness of the complainant, his wife entered into conspiracy with Rahul Sharma and Sakshi Dutta (the petitioner) and got transferred the house of the complainant in the name of Rahul Sharma by way of executing forged sale deed.

7. Furthermore, investigation is still going on in the present case. For thorough investigation of the case and for finding out the modus operandi of commission of the offence, custodial interrogation of the petitioners 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 ensconced 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.”

8. 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.
9. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

09.05.2023
Kothiyal

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No