

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

CRM-M-29039-2023

Date of Decision: 02.06.2023

Nishtha Gupta

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. G.S. Sandhu, Advocate, for the petitioner.

Mr. B.S. Virk, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J.

The petitioner has approached this Court praying for grant of anticipatory bail in a case FIR No.256, dated 03.05.2023, registered under Sections 406, 420, 467, 468 and 471 IPC, at Police Station Ambala Cantt., District Ambala.

Adumbrated facts of the case are that the FIR was lodged by Ashwani Aggarwal, DR Share Stock Brokers Pvt. Ltd. It had been alleged that Ms. Nishtha Gupta was an employee of their company. They found that she modified contract notes and ledger statements for the client and did unauthorized trading. Her parents were called and she apologized at that time and her parents requested to give her one more opportunity as they desperately need this job. It was alleged that she manipulated their system and did back date entries for one of their clients from 17.03.2023 to 21.03.2023. She edited client's new value Form Y to N, so that client does not receive original contract notes or ledger statement. On 07.09.2022, she sent manipulated ledger statement to the client; however, no such statement existed in their system. It was alleged that on 04.04.2023, they had meeting

with her parents for 4-5 hours and they came to know that how deep her fraud was and in the video they recorded her entire confession. Request was made to take legal action against the culprit. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Ambala for grant of anticipatory bail, however, after hearing both the sides, the Court declined the same vide order dated 26.05.2023. Aggrieved by the same, the petitioner is before this Court praying for grant of anticipatory bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been made a scapegoat as she has been falsely implicated in this case. He submits that the petitioner is a girl, who is 24 years of age. He submits that the petitioner has joined the company of the complainant as an Equity Advisor at Ambala w.e.f. 12.05.2021. He submits that the cyber system of the company is very well protected and no employee of share market can change anything in Demat account without the confirmation of Demat client and hence, there is no possibility of the petitioner having committed any such offence as alleged. He submits that the complainant had already transferred Rs.6,40,000/- from the account of the petitioner to the account of Aditi by threatening to lodge FIR against her. He submits that the petitioner has no criminal antecedents and thus, as there is no *prima facie* case made out against the petitioner, she deserves to be granted anticipatory bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that there are specific allegations against the petitioner of manipulation done by her, who was the employee of the company. He submits that she was confronted by the

officials of the company and she duly confessed her guilt. He submits that it was discovered during the investigation that by making false email IDs, she sent fake bills to the clients, namely, Ajay Garg and Aditi Garg and also manipulated the ledger statements. It is submitted that verification was done from the Cyber Cell regarding the manipulation of the email IDs. It was submitted that loss of about Rs.80 lacs has been caused to the complainant company. He submits that the investigation is at threshold and the custodial interrogation of the petitioner is required in the case to unearth the *modus operandi* of the petitioner in committing the cyber offence. He submits that granting anticipatory bail to the petitioner would scuttle the investigation and hence, the petition filed deserves to be dismissed.

Heard.

Admittedly, the petitioner was an employee of the complainant-company. There are specific allegations of manipulation in the system of the complainant by the petitioner. There are allegations that she did unauthorized trading with clients. The allegations pertain to manipulation done by changing fake IDs and sending emails to different clients. It had been alleged that by way of adopting these manipulation, the petitioner has caused loss of about Rs.80 lacs to the complainant-company.

Hon'ble the Supreme Court in **State represented by CBI Vs. Anil Sharma**, (1997) 7 SCC 187 has 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](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering 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.”

The Hon’ble Apex Court in plethora of judicial precedents including Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances.

Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in her favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

02.06.2023
sharmila

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No

(RAJESH BHARDWAJ)
JUDGE