

CRM-M-33708-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33708-2023 (O & M)

Date of decision: 18.08.2023

Rekha Rani

..... Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Bhupender Singh, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in FIR No.863 dated 30.10.2021 under Sections 406, 420 IPC (Section 120-B IPC added later on) registered at Police Station Karnal City, District Karnal.

2. The present FIR came to be registered on the basis of a complaint dated 12.10.2021 of one Rajesh Kumar against Jitender Kumar, Vijay Kumar, Neetu Rani, Rekha Rani (petitioner), Munna and Hardeep. As per the allegations, the complainant was in the business of diamond jewellery in the name and style of Arya Diamond. Jatinder Kumar and Vijay Kumar, sons of Harbans Lal were also doing the business of Jewellery in

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the name and style of J.K. Jewellers. In March 2021, both the aforesaid accused (Jatinder Kumar and Vijay Kumar) had taken the material worth Rs.25 lacs from the complainant with a condition that the payment would be made within a month. However, no payment was made. In the meantime, transactions were going between the complainant and the accused. A cheque was given to the complainant which came to be dishonoured. Subsequently, Hardeep, brother-in-law of Jatinder Kumar had met the complainant and informed him that a family dispute was on going. The complainant later on came to know that Jatinder Kumar and Vijay Kumar had not been sitting at their shop but only Neetu wife of Vijay and manager Munna were running the shop. As no payment was forthcoming, the complainant tried to contact the accused but it transpired that the shop had been closed. Later on, the accused refused to pay the complainant any money.

3. The learned counsel for the petitioner contends that the allegations against the petitioner are baseless. She was merely a house wife and was sitting at the shop of her husband and has been implicated just to pressurize her husband who was one of the main accused. As the case was triable by the Court of a Magistrate, her further incarceration was not required as she was in custody since 08.06.2023, none of the 12 prosecution witnesses had been examined so far and she had clean antecedents.

4. The learned counsel for the State, while referring to the reply dated 11.08.2023, contends that the petitioner was apprehended by the officials of the Immigration Department of the Delhi Airport while she was

attempting to flee from the country. In her disclosure statement she admitted

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that she had purchased ornaments from the money that came to her share and had also got recovered some jewellery and Rs.7,000/- in cash. As there was a likelihood of the petitioner fleeing from the country, she was not entitled to the grant of bail.

5. I have heard the learned counsel for the parties.

6. This Court in the case titled as ***Maninder Sharma Vs. State Tax Officer, State, Mobile Wing, Jalandhar, Punjab bearing CRM-M24033-2021(O&M) Decided on 31.08.2022*** has held as under:-

“Therefore, broadly speaking (subject to any statutory restrictions contained in Special Acts) , in economic offences involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule. However, this would not prevent the Court from granting bail even prior to the completion of investigation if the facts so warrant.”

7. The culpability of the petitioner shall be adjudicated upon during the court of the trial. Admittedly, the petitioner is in custody since 08.06.2023, none of the 12 prosecution witnesses have been examined so far and she is also stated to be a first-time offender. As the trial of the present case is not likely to be concluded in the near future, her further incarceration is not required, moreso as the case is triable by the Court of a Magistrate.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Rekha Rani, is ordered

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to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that she is not involved in any case/crime other than the present one.

10. In addition, the petitioner (or someone else on her behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

11. The petitioner shall also deposit her Passport with the Trial Court/Investigating Agency immediately, if not already done so.

August 18, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No