

CRM-M-36759-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-36759-2023 (O&M)

Date of decision: August 03, 2023

Indu Bala

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. G.C. Shahpuri, Advocate for petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (ORAL)

After being declined bail by the trial Court, petitioner before this Court seeks his release as undertrial in a case bearing FIR No.392 dated 16.05.2023, registered under Sections 420, 406, 467, 468, 471, 201 of the Indian Penal Code, 1860 (for short 'IPC'), at Police Station, City Yamuna Nagar.

2. Per prosecution version, a complaint was received by Dr. Manjeet Singh, Civil Surgeon, Yamuna Nagar to the effect that Indu Bala-Staff Nurse (petitioner), Gagan, Ex-Class IV employee and Rajesh Sharma had cheated some persons by making false promises to get them employed by making/ preparing certain forged documents. They had also received sum of Rs.30,36,135/- for the purpose. Basis thereof, an FIR was registered. During investigation, petitioner was arrested on 22.05.2023 and is in custody ever since.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case as she has nothing to do with it. No specific role has been attributed to her. Alleged recovery of Rs.10,000/- from her house along with stamp pad cannot be termed as incriminating. Petitioner did not provide any purported joining letter or took any money from anyone. Alleged stamp pad is accessible to so many other officials, just like the petitioner.

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3.1. Learned counsel also submits that petitioner is cancer patient. She is also suffering from other chronic diseases viz. migraine, heart problem and lung problem. Taking advantage of all her ailments, co-accused Rajesh Kumar misused the cheque book of husband of the petitioner, just to make her culpable for what was done by him.

3.2. He further submits that nothing is to be recovered from the petitioner, and no useful purpose would be served by keeping her behind bars. He also contends that co-accused of the petitioner, namely Rajesh Kumar has been granted concession of interim anticipatory bail vide order dated 26.07.2023 passed in CRM-M-35788-2023 by this Court, while the petitioner continues to be in jail.

4. On the other hand, learned State counsel, on instructions from SI Bhoop Singh, opposes the petition. He submits that petitioner has committed a serious offence by cheating/ defrauding the victims on the pretext of getting them employed in the clinical staff at Civil Hospital, Yamuna Nagar. She also took huge amounts from them along with co-accused. He, however, admits that there is no other case against the petitioner. Learned State counsel further contends that if released on bail, she might tamper with evidence or influence/ intimate the witnesses and also flee from the trial.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel submits that challan was presented on 19.07.2023, but charges are not framed yet. Investigation is complete *qua* petitioner, she is thus not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Whereas, petitioner has already been languishing in jail for the past more than 2 months in preventive custody, being behind bars since 22.05.2023.

7. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if she is let out, he may either tamper with evidence and/or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency.

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8. It is stated that petitioner is a 38-year old woman suffering from cancer and also having one minor son suffering from mental disorder. He needs 24x7 constant care of her mother. Being a family person having responsibilities and fixed abode, it is unlikely that she poses any flight risk and/or will flee from the trial proceedings. Offence allegedly committed by petitioner is of non-violent nature and in that sense her release on bail is not a threat to society at large by committing any violent crime.
9. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.
10. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on her furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where her case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.
11. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of her bail in the instant case.
12. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 03, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No