

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45745-2023
DECIDED ON: 16.11.2023

KANCHAN BHATIA KUMAR.....PETITIONER

VERSUS

STATE OF HARYANA.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY.

Present: Mr. Randeep S. Rai, Sr. Advocate with
Ms. Rubina Virmani, Advocate
for the petitioner.

Mr. Surender Singh, Asst. AG, Haryana.

SANJIV BERRY, J (ORAL)

By way of present petition filed under Section 438 of the Code of Criminal Procedure, 1973, petitioner seeks anticipatory bail in case FIR (Annexure P-1) as under:

FIR No.	Dated	Sections	Police Station
1972	21.08.2023	379, 420, 467, 468, 471, 120-B IPC	Shivaji Nagar, Gurugram

2. Learned counsel for the petitioner has submitted that in compliance to the order dated 13.09.2023 passed by this Court, the petitioner has already joined the investigation and as such interim bail granted to the petitioner may be confirmed.
3. Learned State counsel, on instructions from Inspector Sudhir, has intimated that the petitioner has joined investigation and is no more required for any custodial investigation in this case nor he is required for further investigation.

4. During the course of hearing on 13.09.2023, this Court has passed the following order:-

“The instant petitions under Section 438 Cr.P.C have been preferred by the petitioners seeking anticipatory bail in the event of arrest in FIR (Annexure P-1) as under:-

FIR No.	Dated	Sections	Police Station
1972	21.08.2023	379, 420, 467, 468, 471, 120-B IPC	Shivaji Nagar, Gurugram

2. Learned Senior counsel appearing for the petitioner in CRM-M-45744-2023 has inter alia, contended that the petitioner is innocent and has been falsely implicated in this case. He submits that the petitioner happens to be the Managing Director of the company wherein the complainant was earlier working as Director (HR) and considering the various acts of misconduct on her part including the complaint dated 04.02.2021 sent by her husband, regarding fraudulent activity, an inquiry was undertaken by the Company, but in the meanwhile, due to unfortunate demise of her husband on 18.02.2021 a case FIR No. 36/2021 was registered against the complainant under Section 306 of IPC, as such a lenient view in the matter was taken and on apology letter from the complainant, the inquiry was closed. But ultimately, taking into account her repeated misconduct, the management of the Company decided to severe off her services. The complainant also lodged an complaint with the management against the petitioner for sexual harassment which was filed by the Internal Complaint Committee and also by the Labour Commissioner Panchkula, however on the basis of the said complaint FIR 307/2021 was registered which is Annexure P-10. He submits that cancellation was recommended in the FIR and the dues of the complainant were paid to her except for withholding of ₹10,87,000/- on account of non receipt of the documents and items such as laptop, mobile phone, car from the complainant. He submits that in the meanwhile, the Company after getting the mortgage cleared from the finance company transferred the car in question in favour of the complainant. He submits that complainant has claimed in the FIR that the present petitioner along with one Kanchan Bhatia Kumar have illegally transferred the car in her name in connivance with each other by forging her signatures and misusing her documents without her consent. He submits that there is nothing on record that the petitioner has got any wrongful benefit out of such transaction but instead it is the complainant who is the

beneficiary of the transactions. He further referred to the reply given by the police before the learned Additional District and Sessions Judge, Gurugram during the course of hearing of the petition for anticipatory bail, wherein, the police has claimed that the signatures on the documents for transfer of the vehicle could not be verified as the copy of her signatures from the bank account were taken from which comparison could not be possible. He submits that the present FIR has been got registered by the complainant to harass the petitioner and even the police has registered the FIR without conducting preliminary inquiry and also delay of more than 8 months in lodging of the FIR is contrary to the law laid down in *Lalita Kumar Vs. Government of Uttar Pradesh and others* 2014 (2) SCC 1 and as such he prayed for concession of bail to the petitioner.

3. Learned Senior Counsel representing the petitioner in CRM-M45745-2023 has inter alia contended in addition to the submissions made (supra) by learned Senior counsel for the petitioner in CRM-M-45744-2023 that the petitioner Kanchan Bhatia Kumar has no role whatsoever in the alleged transaction because at the relevant time she was working as Director sales. He submits that her name has been intentionally added in the FIR by the complainant just because of the fact that after her services were terminated, the petitioner had been given her place as Director (HR) by the management. He submits that none of the petitioners in the case are in any manner beneficiary of the alleged transaction in transferring the car of the Company in the name of complainant and in fact the complainant is the beneficiary thereof and the petitioner is ready to join the investigation.

4. Notice of motion.

5. On asking of the Court Ms. Gaganpreet Kaur, DAG, Haryana accepts notice on behalf of the State and seeks time to file reply.

6. Mr. A.P.S. Deol, Sr. Advocate along with Mr. Himmat Deol, Advocate have put in appearance on behalf of the complainant and argued that the services of the complainant has been illegally terminated due to the fact that she had highlighted the sexual exploitation by the petitioner being the Managing Director of the Company and had even lodged an FIR against him. He submits that the Company had illegally withheld the amount of ₹10,87,000/- from her outstanding dues and in order to cover up this aspect, the petitioners in connivance with each other have got the car transferred in the name of complainant by forging her signatures and misusing the documents without her consent. He as such argued that considering the gravity of the offence, petitioners are not entitled to concession of bail.

7. Adjourned to 16.11.2023.

8. *State to file reply, if any, on or before the next date of hearing.*
9. *In the meanwhile, the petitioners in both the petitions are directed to join investigation within 7 days from today and in the event of their arrest, they are ordered to be released on interim bail on their furnishing bail bonds/surety bonds to the satisfaction of the Arresting Officer/ Investigation Officer. They shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.*
10. *A photocopy of this order be placed on the connected file.”*

5. Keeping in view the above submissions made by learned State counsel and the fact that the petitioner had joined the investigation consequent to the order dated 13.09.2023 passed by this Court, interim bail granted vide order dated 13.09.2023 is hereby confirmed, subject to conditions as envisaged under Section 438(2) Cr.P.C. Further the petitioner is directed to join investigation as and when required in future by way of written notice for such purpose to be served by Investigating Officer of this case upon the petitioner; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

6. The petition stands allowed.

(SANJIV BERRY)
JUDGE

16.11.2023
Jatin

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>