101+211 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-M-13526-2024 (O&M)
Date of Reserve:16.09.2024
Date of Decision: 02.12.2024

Khushi Dutta …Petitioner

vs.

State of Haryana …Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. A.P.S Deol, Sr. Advocate with
Mr. Arun Kumar Goyat, Advocate
for the applicant-petitioner in CRM-34661-2024.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

Mr.B.K Bagri, Advocate
for the applicant-complainant in
CRM-18877-2024 and CRM-37272-2024.

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N.S.Shekhawat J.

CRM-18877-2024

Application is allowed as prayer for, subject to just all exceptions. Annexures C-1 and C-2 are taken on record.

CRM-34661-2024

Application is allowed as prayer for, subject to just all exceptions. Annexures P-15 and P-16 are taken on record.

CRM-37272-2024

Application is allowed as prayer for, subject to just all exceptions. Annexure C-3 is taken on record.

Main case

1. The petitioner has filed the present petition under Section 438 of Cr.P.C., with a prayer to grant anticipatory bail to her in case FIR No. 1573, dated 26.12.2023, under Sections 406, 420 of IPC, registered at Police Station City Panipat, District Panipat (Annexure P-1).

2. The FIR in the present case was registered on the basis of the statement made by Hitender son of Rajpal and the same has been reproduced below:-

> *"To Superintendent of Police, District Panipat. Subject: Application for taking legal action against (i) Parvesh Dutta Prop. Kopsy Mart. Mob.No. 8307564860, (ii) Khushi Dutta Prop. LC Retail Outlet, (iii) Vaibhav Mob. No.7206366467 R/o H.No. 169, near Kids Planet School, Near Jattal Road, Panipat for committing, cheating of total Rs.1,01,90,656/- (Ist installment Rs. 96,90,656/- and 2nd installment Rs. 5,00,000/-). Sir, It is submitted that I, Hitender son of Sh. Rajpal R/o H.No. 84/4 Bishansarup Colony, Panipat. In January 2021, the above mentioned accused had come to my house with Parveen Garg R/o Panipat and met me and during the meeting introduced themselves as owner of their respective companies i.e. Kopsy Mart and LC Retail whereas Vaibhav, who is brother-in-law of Parvesh Dutta had introduced himself as bank manager. They told me that they have readymade garment business and that they, after purchasing clothes from Delhi and preparing gent's jeans, T-shirt, track suits and kid wears there, supply the same to the parties after obtaining orders in whole sale. That due to this, they earn profit of 8 to 10% of their expenditure and thus earning lacs of rupees per month and told me that I can also invest money after forming a firm with them and*

can earn big profit. Both the husband and wife and his Sala Vaibhav tried to convince me a lot. On this, I told them that I will consider it. After some days, all the above mentioned three persons came at my house and again tried to convince me and asked me to invest money in said business on their trust and to earn profit. Due to these meetings, I trusted them and gave them about Rs. 38 lacs from A/c No. 39667992838 of A.K.Enterprises, firm of my wife Smt. Ajay and my A/c No. 32571024241 and also gave Rs. 42 lacs in cash on different dates in their account and at my house to all the above three persons. That the bank transaction was done in the account of LC Retail Outlet and the cash was also given to the LC Retail company only. All the above mentioned three persons came to my house for receiving cash amount. Till 03-02-2022, I had invested Rs. 80 lacs in LC Retail Outlet company. In this regard one agreement dated 03-02-2022 was executed between our firms in which payment of Rs. 80 lacs is mentioned. Copies appended. Even after this, we gave them money whenever they demanded. When one day, I asked for accounts from them, they did not show me any accounts till Sept. 2022 and kept on avoiding the auditing of the accounts. On 04-09-2022, Rs.96,90,656/ of myself and the firm of my wife were due. It is recorded in my diary and after settlement of account, accused no.1 has signed the same. Copies appended. Even thereafter, I had given Rs. 5,65,000/- in cash to above mentioned persons In lieu of that, they gave me a cheque no. 37775785426 of Rs. 1 crore of State Bank of India, Model Town Branch, Panipat from the account of LC Retail Outlet company, which was signed by Khushi Dutta, Prop. of LC Retail Outlet in my presence after filling of the amount. When I presented the cheque in the account of my wife, I came to know that they do not have any money in their account. When I informed all the above three persons regarding this, they kept on delaying it

> *sometime for a week or a month. They kept on giving false assurances to me with intention to cheat and misappropriate my money. They have not given a single paisa to me till today nor have they supplied any material to me. Thereafter, one day, they told me that they had took money from me with intention to cheat and to misappropriate the amount and that now they have succeeded in their purpose and told me to do anything I want. They also threatened me that, if I take any legal against them, they can get me and my children killed. Khushi Dutta also threatened me that she, being a woman can falsely implicate me in any false case of outraging the modesty or some other case and told me to sit at home quietly. When I enquired about them, I came to know that they have cheated other persons also and misappropriated the money. Now Khushi Dutta kept on giving threats to me to get me implicated in false cases. Thus it is requested to you that case be registered against Parvesh Dutta Prop. Kopsy Mart, Khushi Dutta Prop. LC Retail Outlet and accused no. 1's Sala namely Vaibhav for committing cheating and misappropriating more than Rs. One crore by receiving the same through bank transfers and cash and my life and property be protected and my misappropriated amount be got recovered. Legal action be taken against them. I will be grateful. Dated 06-11-2023, Applicant Sd/- Hitender son of Sh. Rajpal, R/o H.No. 84/4 Bishan Sarup Colony, Panipat. Mob. No. 98121- 34657.*

3. Learned senior counsel appearing on behalf of the petitioner vehemently argued that the petitioner is a young lady, who has been falsely involved only on the ground that she was the wife of Parvesh Dutta, main accused. He further submitted that even though M/s LC Retial Outlet was registered in the name of the petitioner, but she had got nothing to do with the

day to day affairs of the said company and she had not received even a single penny out of the business transactions. In fact, the account of M/s LC Retail Outlet was being run by her husband, i.e.,Parvesh Dutta, main accused and there was no evidence to show that the petitioner had conspired with Parvesh Dutta. Even she was not aware of the transactions between Parvesh Dutta and the complainant in the present case. Further, she had never met the complainant nor induced him to invest in the firm M/s LC Retial Outlet in the year 2021. Rather, the petitioner had separated from her husband Parvesh Dutta in December,2021 and since then, she had been residing with her mother separately, on account of mis-conduct of her husband Parvesh Dutta. The petitioner had also filed a complaint before the Superintendent of Police, Panipat against her husband Parvesh Dutta (co-accused) and her parents-in-law as her husband and parents-in-law had been pressurizing her to get money from her parents, as her husband had suffered losses in business. Even her husband had misused her signed blank cheques given in good faith by her as a wife in the year 2021. Even Parvesh Dutta issued various cheques to different persons and she was wrongly made an accused. Still further, on 04.08.2023 i.e. prior to the registration of the FIR, the petitioner had also filed a petition under Section 13 of the Hindu Marriage Act for dissolution of the marriage against her husband, Parvesh Dutta in the Family Court, at Panipat. Even, co-accused namely Vaibhav Chhiber has already been granted the concession of anticipatory bail by this Court and the petitioner is on similar footings and deserves to be enlarged on anticipatory bail.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner had actively participated in the commission of crime. Even, huge amounts were deposited in the account of firm M/s LC Retail Outlet, which was run by the petitioner. Learned State counsel also referred to Para No.3 of the status report, which clearly showed that the petitioner had obtained a sum of Rs. 47,95,000/- and Rs.14,35,000/-in the account of the firm M/s LC Retail Outlet. Para 3 of the status report has been reproduced below:-

That after registration of the FIR, Investigation was carried out by SI Jitender Kumar No.1051, PS City, Panipat, who collected the following relevant records pertaining to the case including:-

(1) Statement of SBI A/c No.39667992838 of firm M/s A.K. Enterprises run by complainant's wife Ajay wherein an amount of Rs.5 Lac on 18/02/2021, Rs.13 Lac on 02/03/2021, Rs.8 Lac on 20/03/2021, Rs.6 Lac on 24/03/2021, Rs.8 Lac on 05/04/2021, Rs.1.25 lac on 26/04/2021, Rs.1.75 lac on 03/04/2021, Rs.1.50 lac on 02/06/2021, Rs.2.50 lac on 01/11/2021, Rs.95,000/- on 05/01/2022 were found to be transferred in the SBI a/c No. 37775785426 of the firm M/s LC Retail Outlet run by accused/petitioner which becomes amount in total Rs.47,95,000/.

(ii) Statement of SBI a/c No.32571024241 of complainant wherein an amount of Rs.5.30 lac on 14/09/2021, Rs.2.00 lac on 23/11/2021, Rs.3.00 lac on 15/12/2021, Rs.1.05 lac on 05/01/2022, Rs.3.00 Lac on 05/02/2022 were found to be transferred in SBI a/c No.37775785426 of the firm M/s LC Retail Outlet run by accused/petitioner which becomes amount in total Rs.1435000/-

(iii) Statement of SBI a/c No.37775785426 of the firm M/s LC Retail Outlet run by accused/petitioner conforming thereby the above entries and except it an amount of Rs.5.00 Lac on 22/05/2021, Rs.45,000/- on 06/04/2021, Rs.47,000/- on 07/04/2021, Rs.1.03 Lac on 08/04/2021, Rs.64,000/- on

21/04/2021, Rs.48,000/- on 29/04/2021, Rs.1.04 Lac on 04/05/2021, Rs.60,000/- on 27/05/2021, Rs.60,000/- on 14/06/2021, Rs.25,000/- on 6/08/2021, Rs.90,000/- 18/08/2021, Rs.35,000/- on 2/9/2021, Rs.80,000/-on 21/09/2021, Rs.11,000/- on 03/11/2021 was found to be transferred/returned from this account to the SBI a/c No.39667992838 of firm M/s A.K. Enterprises run by complainant's wife Ajay which becomes amount in total Rs.12,72,000/- and similarly an amount of Rs.500/- was transferred/returned from this account to the SBI a/c No.32571024241 of the complainant.

(iv) Copy of an affidavit of Rs.101/- dated 05/01/2022 whereon an agreement for partnership was executed between Copsi Mart through proprietor/accused Parvesh Datta and AK Enterprises through proprietor/complainant's wife Ajay for setup their business through online websites and applications and the said agreement was also signed by LC Retail Outlet run by accused/petitioner. The said agreement was signed by the petitioner and the same is annexed with Status Report as ***Annexure R-1*** *for the kind perusal of this Hon'ble Court.*

(v) Copy of a receipt of Rs.1.00 Crore executed by accused/petitioner prop. of LC Retail Outlet against which liability she has issued a cheque No.468586 dated 07/02/2023 worth Rs.1.00 Crore in favour of M/s AK Enterprises run by the complainant's wife Ajay. The receipt duly signed by the petitioner is annexed with status report as ***Annexure R-2*** *for kind perusal of this Hon'ble Court.*

(vi) Statement of Indian Bank a/c No.6914285236 of M/s Copsi Mart run by the accused/Parvesh Dutta wherein no transaction was found with the SBI a/c No.37775785426 of the firm M/s LC Retail Outlet run by accused/petitioner and SBI a/c No.32571024241 of complainant.

(vii) Statement of HDFC Bank a/c No.01951030000026 of Vaibhav Chhibber wherein no transaction was found with the SBI a/c No.37775785426 of the firm M/s LC Retail Outlet run by accused/petitioner and SBI a/c No.325710- 24241 of complainant.

(viii) Record of the complaint CIS No.NACT/868 of 2023 titled as 'M/s AK Enterprises Vs. LC Retail filed by the complainant's wife Ajay in concern of cheque No.468586 Dt.07/02/2023 worth Rs.1.00 Crore which is now pending in the Ld. Court/JMIC Panipat for cross-examination of the complainant for the date 16/03/2024".

5. Still further, learned counsel for the complainant vehemently argued that the petitioner is wrongly submitting that she had left the company of her husband in December,2021 and since then, she had no concern with him or any of the financial transactions carried out by him in the name of M/s LC Retail Outlet. It has been falsely stated that she had also filed a petition under Section 13 of the Hindu Marriage Act for dissolution of the marriage against her husband, Parvesh Dutta in the Family Court at Panipat. Rather, even after December 2021, a sum of Rs. 2202/- was transferred in the account of the petitioner from the account of Parvesh Dutta, her husband. On 28.01.2022, again an amount of Rs.5002/- was transferred in her account from the account of Parvesh Dutta. Even after that, several amounts were transferred between the petitioner and her husband. Even, before making such bank transactions, the bank had verified the signatures of the account holder i.e. the petitioner and for these financial transactions, a OTP was received on the phone number of the petitioner. Consequently, the petitioner was misleading the Court regarding the fact of residing separately from her husband since December, 2021.

6. I have heard the learned counsel for the parties and with their able assistance, I have perused the record carefully.

7. In the present case, it is apparent that the petitioner and her husband had received a sum of more than 01 crore rupees from the complainant. They had gone to the house of the complainant and asked him to make the investment in the firm M/s LC Retail Outlet, which was owned by the petitioner. Even, as per the record, the petitioner had also issued the receipts to

the complainant, which bears the signature of the petitioner as well as the signatures of her husband, Parvesh Dutta. Moreover, an amount of approximately 62 lacs had been transferred in the account of the petitioner from the account of the complainant. Consequently, keeping in view the gravity of the allegations, the petitioner does not deserve the discretionary relief of anticipatory bail. Moreover, the case of Vaibhav Chhibber was on a different footing as not even a single penny was transferred in the account of Vaibhav Chhibber. Still further, it is also apparent that the petitioner had been received huge sums from her husband, Parvesh Dutta even after December, 2021 and she has filed a petition under Section 13 of the Hindu Marriage Act against her husband Parvesh Dutta, just to create a false defence and her conduct disentitles her to the relief of anticipatory bail.

8. Thus, without commenting any further on the merits of the case, the present petition deserves to be dismissed by this Court.

(N.S.SHEKHAWAT)
JUDGE

02.12.2024
hitesh

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