IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.209 **CRM-M-27345-2024 (O&M)**
Date of decision : 31.07.2024

Kavita Yadav

..... Petitioner

VERSUS

State of Haryana ..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Prashant Singh Chauhan, Advocate, for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

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KIRTI SINGH, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C., is for grant of anticipatory bail to the petitioner, in case FIR No.195 dated 28.05.2023, under Section(s) 420, 406 and 120-B of Indian Penal Code, 1860, registered at Police Station Dharuhera, District Rewari.

2. The brief facts of the case as put forth by the prosecution are that the complainant-Balbir Singh had sought legal action against accused (1) Vikram Singh S/o Rishi Raj resident of Village Jadthal, (2) Chetan Chauhan s/o Nihal Singh resident of Village Jadthal (3) PRadeep Agarwal Stamp Vendor (4) Narender Yadav s/o Banwari Lal resident of Nandrampur Bans and (5) Kavita Yadav (the petitioner herein) w/o Sh. Vipin Yadav resident of Sohna Road, Gurugram. The aforesaid accused persons acted in connivance and had formed a land mafia gang and cheated the complainant of Rs.1.2 crore out of which Rs.60 lacs was transferred through RTGS and of Rs.60 lacs was paid in cash which were allegedly taken by co-accused

Narender Yadav and further Rs.2,38,000/- was grabbed for the purpose of stamp duty and hence duped the complainant for a total of Rs.1,22,38,000/-. It is further mentioned in the complaint that co-accused Narender Yadav came to the complainant in the month of January 2021 and told him about a land, measuring 29 Kanal 7 Marla, for sale in village Jadthal and co-accused Narender and Chetan Chauhan had introduced the complainant to Vikram Singh and had showed him the land in question and subsequently a deal of Rs.1,20,00,000/- was finalized for the sale of land. On 06.01.2021 co-accused Vikram Singh, Narender Yadav, Chetan Chauhan took the complainant to accused Pradeep Aggarwal (Stamp Vendor) who had received Rs.2,38,000/-, from the complainant, on account of payment of stamp duty and got issued Stamp papers from the Website of Government of Haryana bearing No.50F2021A98, GRN No.71002044 in favour of Lakshmi Devi, wife of the complainant and a sale deed for the said land was prepared in favour of wife of the complainant, on which signatures and thumb impression of co-accused Vikram Singh are present. Co-accused Vikram Singh along with co-accused Narender Yadav and Chetan Chauhan took the complainant to the office of Sub-Registrar and told the complainant that sale deed cannot be attested today and accused deliberately made only an agreement to sell in the name of the wife of the complainant. On 08.01.2021 accused persons prepared the an agreement, of the land in question, in the name of the complainant and gave the possession on the spot and received the complete payment from the complainant, but the accused who had acted with an intention to cheat and committed fraud to grab the money of the complainant and later on a forged a illegal Sale Deed No.1957, dated

13.01.2021, in the name of the present petitioner despite having the knowledge that an agreement for the land in question had been already executed by the accused Vikram Singh on 08.01.2021 and co-accused Narender Yadav and Chetan Chauhan were attesting witnesses to the said agreement. That all the accused knowing everything prepared a fake and fabricated deed, showing co-accused Chetan Chauhan as buyer in the name of the present petitioner in order to grab the money and dupe the complainant. That it is further mentioned in the complaint that on 06.01.2021, Stamp of Rs.2,38,000/- was issued in the name of accused Vikram Singh and Lakshmi Devi W/o the complainant through Pradeep Aggarwal, (Stamp Vendor) bearing Stamp No.50F2021A98, but the accused in connivance with Pradeep Aggarwal removed the entry which was in the name of the wife of the complainant and instead it was shown to be issued in the name of the present petitioner. The complainant sought legal action against the accused persons and prayed for recovery of his money consequently the present FIR was registered against the accused persons and investigations was conducted.

3. Today, the status report has been filed by the learned State counsel in Court which is taken on record. Learned State counsel, on instructions from the concerned police official submits that the petitioner though has joined the investigation but is not co-operating and for the purpose of investigation, the custodial interrogation is require to take the investigation to a logical end. He further submits that the offence pertains to a huge sum of money and forgery, and as per the investigation conducted so far and the evidence/statements recorded, the involvement of the petitioner

in the offence stands *prima facie* proved. The relevant part of the status report is reproduced as under:-

> "7. That during the investigation of the present case all the bank account statements pertaining to the accused and the complainant were obtained by the investigating agency and the records were investigated and it transpired that:
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> a. On 11.01.2021, the complainant Balbir have transferred an amount of Rs.60,00,000/- from his DCB bank having account number 06211100024763 to the bank account of the accused Vikram Singh in his Cooperative bank having account number 000734001100581 and it further transpired during the investigation and perusing the records of accused Vikram Singh have withdrawn Rs.5,00,000/- as cash and later on transferred the remaining amount of Rs.55,00,000/- to account number 3369807526 of Central Bank of India pertaining to co accused Chetan Chauhan.
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> b. That co-accused Chetan Chauhan kept Rs. 5,00,000/- with himself and on 12.01.2021 Chetan Chauhan had transferred Rs.50,00,000/- to Nepal Singh son of Mahender Singh in his bank account bearing number 77250 101022065 of Haryana Gramin bank.
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> c. That on 12.01.2021 Nepal Singh have transferred the amount of Rs.50,00,000/- in the account of the present petitioner accused Kavita Yadav in her bank account bearing number 7865191102 of Indian bank.

> d. That it further transpired that on 12.01.2021, Rs.50,00,000/- have been transferred to the bank account of accused Vikram Singh and on 13.01.2021, Rs. 10,00,000/- were transferred by the present petitioner accused Kavita Yadav from her bank account bearing number 786519102 of Indian bank to the bank account of the accused Vikram Singh.
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> e. That later on the accused Vikram Singh have transferred Rs.50,00,000/- to Nepal Singh son of Mahender Singh und Rs. 10,00,000/- to Ramotar son of Chetram Saini in his bank account bearing number 000734016101828 of Central Cooperative Bank".

4. Further, it has been vehemently argued by learned State counsel that present petitioner had received a sum of Rs.50 lacs from Nepal Singh which was initially received by co-accused Vikram from the complainant and later she had transferred the same along with an additional sum of Rs.10 lacs in the account of co accused Vikram Singh with an intention to misappropriate the same and later got the sale deed executed and registered in her favour wherein co-accused Chetan Chauhan had appeared on her behalf. After the completion of the investigation against the co-accused Narender, Chetan Chashan and Vikram Singh, the investigation agency submitted the final report under section 173 Cr.P.C. before The concerned trial Court and the case was fixed for 08.06.2024 for purpose of appearance of the accused. He further submits that co-accused Nepal Singh is yet to be joined in the investigation and the investigation qua the petitioner is still

pending and the final investigation report will be filed after competition of the same.

5. It is further submitted that petitioner is also involved in case FIR No.22 dated 21.01.2022 registered under sections 420, 406 read with 34 of IPC, Police Station Dharuhera and is on bail.

6. Heard.

7. This Court has perused the case file, and prima facie it appears that the present petitioner along with co-accused have committed embezzlement of money by duping the complainant as the accused persons received the money as consideration of the sale but had only executed an agreement to sell in the name of the complainant and later illegally transferred the land in question to the petitioner. The complainant had transferred the said amount through RTGS and in cash and the same is yet to be recovered. The investigation of the case is pending and there is probability if the petitioner is granted concession of anticipatory bail, she might influence the investigation by tampering the evidence and may also not join the investigation again.

8. That there are specific allegations levelled against the petitioner in the complaint and the involvement of the present petitioner duly surfaced in the disclosure statements suffered by the co-accused and it transpires that the present petitioner was well aware of the crime and was in hand and glove with the other accused and is also a beneficiary of the proceeds of the embezzled money, which prima facie reflects involvement of the petitioner.

9. In ***Siddharam Satlingappa Mhetre v. State of Maharashtra***, ***(2011) 1 SCC 694***, the Hon'ble Apex Court carefully considered the

principles established by the Constitution Bench in ***Gurbaksh Singh Sibbia v. State of Punjab***, ***(1980) 2 SCC 565***. After a thorough deliberation, the Hon'ble Apex Court arrived at the following conclusion:

> "112. The following factors and parameters can be taken into consideration while dealing with anticipatory bail:
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> (i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
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> (ii) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;
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> (iii) The possibility of the applicant to flee from justice;
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> (iv) The possibility of the accused's likelihood to repeat similar or other offences;
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> (v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;
>
> (vi) Impact of grant of anticipatory bail, particularly in cases of large magnitude affecting a very large number of people."

10. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

11. The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tight rope we must walk

lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each individual case becomes crucial to ensure a just outcome.

12. Therefore, this Court is of the view that to unearth the true dimensions of the alleged crime, the police requires the custodial interrogation of the petitioner in this case, hence, the petitioner does not deserve the concession of anticipatory bail.

13. In view of the aforementioned facts and circumstances as well as in view of the status report filed by learned State counsel, this Court does not deem appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

14. Dismissed.

(KIRTI SINGH)
JUDGE

31.07.2024
Kapil

Whether speaking / reasoned Yes/No

Whether Reportable Yes/No