

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.32527 of 2022

Date of decision: 9th February, 2024

Mamta Girdhar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Anuj Balian, Advocate for the petitioner.

Mr. Mohit Kapoor, Addl. Advocate General, Punjab
for the respondent/State.

Mr. Navjot Singh, Advocate for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 438 Cr.P.C. in case FIR No.29 dated 24.03.2022, Police Station Phase-8, District SAS Nagar (Mohali), under Sections 406, 420, 120-B IPC.

2. On 27.07.2022, while noticing the following submissions made by learned counsel for the petitioner, a Coordinate Bench of this Court had granted the concession of interim bail to the petitioner and asked her to join investigation.

“The FIR in question was lodged at the instance of Dr. Kiran Pal Singh wherein it is alleged that Vikas Girdhar used to visit him as he was his patient and had represented that he was into buildings renovation work and

was also into selling antique idols and on account of which the complainant being taken in by his representation initially given an amount of Rs.50 lakhs to him for the purpose of renovating three of his houses and for installing some antique idols. It is further the case of complainant that subsequently another amount of Rs.10 lakhs was also paid, but neither any renovation work was carried out nor any antique idol was installed. Later upon insistence by the complainant, accused Vikas Girdhar handed over cheques for an amount of Rs.75 lakhs, some of which were issued by his wife, i.e. the petitioner which upon presentation were dishonoured.

Learned counsel for the petitioner has submitted that she has falsely been involved in the present case simply to pressurize Vikas Girdhar against whom main allegations of fraud have been levelled. Learned counsel submits that she is a house-wife residing most of the times at her native place at Kaithal and that even if for the sake of arguments it is admitted that some of the cheques were dishonoured, she at best would be liable for offence punishable under Section 138 of Negotiable Instruments Act, as there is nothing in the FIR to suggest that she had ever held out any representation regarding renovation work or for supplying antique idols.”

3. Learned counsel for the petitioner submits that in compliance of the order dated 27.07.2022, the petitioner has joined investigation and cooperated with the investigating agency. He has further submitted that thereafter, the parties were referred to the Mediation and Conciliation Centre of this Court vide order dated

04.07.2023, however, the parties failed to arrive at any kind of settlement.

4. Report of the Mediation and Conciliation Centre of this Court is also to the same effect that the parties had been unable to resolve all the disputes.

5. Learned State counsel, on instructions, does not dispute the factum of the petitioner having joined investigation and cooperated with the investigating agency.

6. Learned counsel appearing on behalf of the complainant, has however, opposed the prayer and submissions made by the counsel opposite for making the interim order dated 27.07.2022 absolute. He submits that the petitioner and her husband had cheated the complainant of a huge amount of money; they had given various cheques of different amounts which on presentation before the Bank had been dishonoured, as a result of which complaint under Section 138 of the Negotiable Instruments Act, 1881 also stood filed against the petitioner's husband. It has been further submitted that since recovery of certain antiques has not been effected during investigation, the petitioner be directed to join investigation again and get the recovery of the articles effected.

7. On a pointed query put to the learned State counsel as to whether custodial interrogation of the petitioner is required, he, on instructions, has replied in the negative. He submits that in fact no recovery of any antiques is to be effected as the allegations in the FIR

were only to the effect that the petitioner and her husband had given assurances to the complainant that in lieu of the money given, they would be purchasing/supplying certain antique articles and thereafter, carry out renovations in their house(s). Learned State counsel, on further instructions, has informed the Court that in the case in hand not only challan has been presented, but even charges stand framed.

8. I have heard learned counsel for the parties and perused the relevant material on record.

9. In the facts and circumstances as enumerated hereinabove, the petition is allowed and the interim order dated 27.07.2022 is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C. Needless to say, in case the petitioner misuses the concession of bail granted to her, the State would be at liberty to seek cancellation of the bail granted to her.

(MANJARI NEHRU KAUL)
JUDGE

February 9, 2024
rps

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