299 IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-30690-2024
Date of decision: 8th July, 2024

Maanta

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Pankaj Nenhera, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

***

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
723	01.08.2017	City Hisar, District Hisar, Haryana	406 and 420 of IPC, 1860

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of a written complainant submitted by the complainant Bishambar Dayal alleging therein that the accused Ashish, Kapil Sharma and Barkha Bhutani were running four societies named as (I) The Bank Staff Cooperative Urban Salary Earners Thrift and Credit Society Ltd. (ii) The Jai Luxmi Cooperative N.A. T & C Society Ltd. (iii) The Hisar City Ever Believe Cooperative N.A. TC Society Ltd. and The All Employees Cooperative S.E T & C Society

Ltd., as Directors/Honorary Secretaries. Several persons had deposited their money in the abovenamed societies on representation made by the accused persons, to return the deposited amount along with half yearly compound interest at the rate of 12% to 15%. He alleged that the abovenamed accused however, misappropriated the deposited amount and purchased *benami* properties in the names of their respective family members and duping the innocent depositors of huge amount of money, which was to the tune of rupees forty crores. Several depositors had made complaints against them but no action was taken. After registration of FIR, investigation proceedings were initiated. The statements of complainant and other victims were recorded. On 01.07.2019, the accused Kapil Sharma had been arrested. He suffered disclosure statement admitting his involvement in the case as well as of the accused Ashish Shankala. The co-accused Barkha Bhutani who was also named, had been extended benefit of bail. During the course of investigation, the matter had been sent to SIT, Narwana. The record of FIR bearing No. 294 of 2016 registered at Police Station City Hisar against the abovenamed accused as well as the present petitioner and accused Sudhir Ahlawat and Rajesh was requisitioned. The petitioner and co-accused had suffered disclosure statements in case bearing FIR No. 294 admitting their involvement in the crime of this case as well. Offences under Section 201 and 120-B of IPC as well as Section 3 of The Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013 (for short 'HPID Act') were added. The petitioner was nominated as an accused in this case, on the basis of disclosure statement of accused Rajesh suffered in case bearing FIR

No. 294, wherein he had disclosed that the present petitioner who was posted as Inspector, was actively involved in the misappropriation of the deposited amount and had prepared forged record to facilitate the embezzlement and she was one of the beneficiaries of the amount of the depositors. She is alleged to have prepared forged record of dispatch and entry register and to have destroyed record of the abovenamed societies to give unfair advantage to the co-accused. As per the allegations, she had also prepared a false report while fully knowing that the audit reports of the abovenamed societies were forged and had not given information about the irregularities committed by the societies to the Deputy Commissioner and along with co-accused had siphoned off substantial amount of money. In his statement recorded under Section 164 of Cr.P.C. one Rajbir Singh who was an official of the office of Co-operative Societies Department, he too disclosed about the complicity of the petitioner. Investigation against the petitioner is underway. She had moved an application for grant of pre-arrest bail which had been dismissed by Court of Additional Sessions Judge, Hisar on 18.06.2024.

3. The present petition has been filed by the petitioner on the grounds and it is argued by her counsel that she has been falsely implicated in this case after a gap of about seven years. Neither she was named in the FIR No. 723 nor she was tried to be joined into investigation for such a long period of time, though two other FIRs bearing No. 294 dated 09.04.2016 and 71 dated 20.01.2018 were already registered against her and she had been extended benefit of regular bail in those cases. It was only thereafter that she

has been involved in this case. Her custodial interrogation is not required. No recovery is to be effected from her. No useful purpose would be served by keeping her in custody. Therefore, it is argued that she deserves to be extended benefit of anticipatory bail.

4. Status report has been filed by respondent-State. It is submitted therein and argued by learned State counsel that there are serious allegations against the petitioner. Infact, the name of the petitioner had cropped up during the investigation of case bearing FIR No. 294 dated 09.04.2016 on the basis of disclosure statement of co-accused Rajesh Kumar, Auditor. She in collusion with the other officials of her department i.e. co-accused and the Secretaries of the societies had embezzled money of innocent depositors and had also committed willful neglect action in her duties which was supposed to legally perform thereby causing wrongful loss of crores of rupees to the depositors. It is argued that her custodial interrogation is required for conducting thorough investigation of the matter by the police. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. As per the allegations, the petitioner who was posted as Inspector in Co-operative Societies Department, Hisar colluded with some other officials of her department as well as the co-accused and in collusion thereof, she prepared forged record of dispatch and entry register and also destroyed records of the abovementioned four societies and did not take any

action against its Directors/Secretaries qua their embezzling the money of the depositors which showed her involvement in the subject crime. The fact that she has been nominated in this case only on the basis of disclosure statement of the co-accused Rajesh Kumar recorded in case bearing FIR No. 294 on 13.03.2024 and statement recorded by record keeper Rajbir Singh under Section 164 of Cr.P.C. on 15.03.2024 only, does not show that she has been wrongly nominated as such. The allegations against her are serious in nature and require thorough investigation to elicit the truth. It is well settled that custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of Cr.P.C. Many useful information can be disinterred during custodial interrogation. It is also a matter of discretion to grant or not to grant pre-arrest bail. Moreso, no extra ordinary circumstance is shown to have been made out in this case to extend benefit of pre-arrest bail. As such, no reasonable ground is made out to allow the petition. Accordingly, the same is dismissed.

7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

8th July, 2024
Parveen Sharma

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No