205 IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-31808-2023
Date of decision: 25th July, 2024

Anu @ Anu Praveen Kumar

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. B.S. Bhalla, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.
Mr. J.K. Sehrawat, Advocate for the complainant.

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MANISHA BATRA, J (ORAL):-

The petitioner is seeking benefit of pre-arrest bail in case arising out of FIR No. 300 dated 21.04.2023 registered under Sections 406, 420, 467, 468, 471, 120-B of IPC, 1860 and Section 24 of Emigration Act, 1983 at Police Station HTM, District Hisar on the basis of a written complaint filed by the complainant Sanjeet alleging therein that he was owner of Pasmate Emigration and Educational Consultant Private Limited, which was engaged in the business of sending children abroad. The husband of the petitioner had represented to him that he was also engaged in the same business and also that his brother was posted as DGP in Home Ministry at Delhi. He had induced the complainant to work along with him. On 06.03.2023 and 25.03.2023, the petitioner had taken a sum of Rs. 47,000/- from the twenty children who were willing to go abroad and were in contact with the complainant. This money was obtained by him on the pretext of getting the medical examination of these children conducted from Civil Hospital, Chandigarh as it was required for the purpose of issuance of Visa. On asking of husband of the petitioner, the complainant had deposited an amount of Rs. 1,07,00,000/- in his bank account for sending the children to Canada. The husband of the petitioner had sworn an affidavit affirming receipt of the aforementioned money and undertaking that he along with his chartered accountant Kavita Khandelwal would be responsible for refund of the aforementioned amount, if the visa of the children was not issued. He had obtained necessary documents but no visa was issued in favour of the above mentioned children. Feeling suspicious, the complainant had contacted DGP Arpit Shukla who was claimed by the petitioner to be his brother but it was disclosed to him that co-accused Parveen was involved in committing frauds and was already involved in seventeen cases of similar nature. He prayed for taking action against the petitioner.

2. As per the allegations, husband of the petitioner i.e. co-accused Parveen was apprehended on 25.04.2023. During interrogation, he disclosed that his wife i.e. petitioner and Jatinder along with him had hatched a conspiracy to cheat public persons in the name of sending them abroad. He stated that it was also agreed between them that the co-accused would be further investing the money received by way of cheating. He further disclosed that he had induced the complainant to deposit an amount of Rs. 1,07,00,000/- in his own bank account and received a sum of Rs. 9,00,000/- on the pretext of sending 20 children abroad and then a sum of Rs. 47,000/-

each from those children on the pretext of getting their medical examination conducted. He also disclosed that he had deposited a sum of Rs. 5,00,000/- in the bank account of his wife i.e. the petitioner. Apprehending her arrest, the petitioner had moved an application for grant of pre-arrest bail before the Court of learned District & Sessions Judge, Hisar, which was dismissed vide order dated 22.05.2023.

3. Learned counsel for the petitioner has submitted that she has been falsely implicated in this case. She has no knowledge regarding the transactions alleged by the prosecution. The accused Parveen being her husband used to maintain her account. She had nothing to do with his business. She has been implicated in this case only due to being wife of the co- accused Parveen. No recovery is to be effected from her. Her custodial interrogation is not required. No useful purpose would be served by detaining her in custody. As such, it is urged that the petition deserves to be allowed.

4. Vide order dated 06.07.2023, the petitioner was directed to join the investigation and was admitted to interim bail. As per the status report filed by the respondent-State, she joined investigation as on 25.07.2023 and 16.09.2023. It is, however, argued by learned State counsel that infact, an amount of Rs. 10,00,000/- was transferred in the accounts of the petitioner maintained at two different banks which was clearly reflective of her being a part of criminal conspiracy hatched by her husband and herself with the co-accused to fraudulently grab huge amount of money from the complainant in the name of sending children/students to Canada. It is argued that the

custodial interrogation of the petitioner is required as she did not co-operate on her joining the same. She has also not handed over the mobile phone which she was using for operating the email ID. Certain documents have also to be recovered from her. Recovery of huge amount of money is to be made. Her husband is in custody. No extra ordinary and sparing circumstance warranting exercise of powers of grant of anticipatory bail has been made out in her favour. 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. The petitioner is alleged to have entered into a criminal conspiracy with the co-accused i.e. Parveen and the other co-accused to defraud the innocent public persons and to cheat them by inducing them to part with money on the pretext of making arrangements for sending them abroad by obtaining Visas. As per the allegations, the husband of the petitioner had extracted a huge amount a sum of Rs. 1,16,00,000/- from the children/students who were introduced to him by the complainant, who was also engaged in the business of sending children abroad. The petitioner and himself misappropriated that money and issued fake documents to show that process for sending the children abroad was going on. The allegations against the petitioner are serious in nature as her active complicity in the subject crime is *prima facie* made out from the fact that in her two bank accounts an amount of Rs. 10,00,000/- was transferred out of the amount

taken by the co-accused. There is no basis for the contention that she was not aware about the transactions made by her husband. Simply because, she has joined the investigation, she does not become entitled to be extended benefit of bail as a matter of right. Rather in my considered opinion, her custodial interrogation is required for the purpose of conducting thorough investigation in the matter and for eliciting information as to the manner adopted by the co-accused and herself for cheating the complainant and the children connected with him and other public persons as well as for the purpose of recovery of the amount criminally misappropriated by her. Moreso, it is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discussion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant's fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

7. It is 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

25th July, 2024
Parveen Sharma

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