



CRM-M-33370-2023

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of Decision: 30.09.2024

ANU THAPAR

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.

Present: Mr. Keshav Pratap Singh, Advocate and
Mr. Anmol Puri, Advocate for the petitioner.

Mr. R.S.Bhatta, DAG, Punjab.

Mr. Nakul Sharma, Advocate for the complainant.

GURBIR SINGH, J (ORAL)

1. This petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case bearing FIR No. 3 dated 28.04.2023 under Sections 406, 420, 120-B IPC registered at Police Station NRI, District Jalandhar.

2. The present FIR was registered on the complaint of Jaswinder Singh against Niharika Jelly @ Neha, Rahul Garg, Anu Thapar- petitioner and others. As per allegations, the complainant is doing the business of import and export for the last about 08 years and his cousin Hanmeet Singh resident of Ludhiana was also doing same business with him. In the year 2021, Rahul Garg came in contact with him and his cousin- Hanmeet Singh. Rahul Garg told the complainant that he would send cheap motor scrap

from USA to their firm and they would earn good profit. Thereafter, Rahul

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Garg started sending photographs of motor scrap on the complainant's whatsapp number and on seeing the photographs he was made to believe that Rahul Garg would not cheat him. Rahul Garg and complainant's mother used to talk on the phone and his mother considered him as her third son, due to which he became attached to the family. Rahul Garg sent him the contract of a container (forty ton) of motor scrap by email and accordingly 10,400 US Dollar (Indian Currency (Rs.8,35,580/-) was transferred in the bank account. On 13.09.2022, Rahul Garg sent him final invoice for one container (20 tonnes) of motor scrap along with packing list, loading photographs of container. The complainant started waiting for the receipt of goods. He tried to contact Rahul Garg but every time his phone was switched off. He contacted his cousin who told him that Rahul Garg had taken Rs. 5 crores to send them 28 containers of motor scrap but not even one container had reached India yet. On 26.09.2022, the complainant along with his cousin went to the address of Rahul Garg's brother Tarun Garg at Chandigarh but it was locked. They contacted Tarun Garg and told him that his brother and his firm had taken Rs. 8,50,000/- and Rs.5,00,00,00/- respectively but now he was not picking up the phone. On this, Tarun Garg told them that he would help them but demanded Rs.5,00,000/-. The complainant did not say anything but Hanmeet Singh promised to pay Rs. 5 lacs to Tarun Garg and he asked to bring Rs. 5 lacs after two days and he would call Rahul Garg, his wife and mother to Ludhiana. Thereafter, on 28.09.2022, Hanmeet Singh arranged Rs. 3 lacs and the complainant arranged Rs. 2 lacs from their business and gave the same to Tarun Garg at Ludhiana. The complainant along with his cousin

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reached the hotel where Rahul Garg's wife and mother were present. Tarun Garg told them that he would refund their money, he took from them and asked for week's time. After a week, Tarun Garg told the complainant that Rahul Garg was in Nepal. He gave mobile number of Rahul Garg's wife & mother and also told him that they were also going to America. After due enquiry it came on record that petitioner have defrauded the complainant of Rs.10,50,000/- and Rs. 5,03,00,000/- to his relative's firm, and cheated him and his relatives illegally and fraudulently and caused financial loss to the complainant.

3. Learned counsel for the petitioner has argued that petitioner is a software engineer and was married to Rahul Garg. She went to USA in the month of May 2015. Her husband also came to America on the basis of dependent VISA and he started business with one Niharika Jelly @ Neha. Since the petitioner was on H.B.Visa which is meant for study only, she could not do any business in USA nor she was a partner in the above mentioned firm in USA. The dispute is of civil nature. The petitioner has no role to play in the entire transaction. No money has been transferred in the account of the petitioner. The petitioner is a respectable lady. She cannot be made vicariously liable for the amount deposited in the account of the firm. In pursuance of order dated 14.07.2023 passed by this Court, the petitioner has already joined the investigation.

4. Learned State counsel fairly admits that the petitioner has joined the investigation and no money had been transferred in the account of the petitioner. As recovery is yet to be effected, the interrogation of petitioner is necessary, the petitioner is not entitled for the anticipatory bail.

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5. I have heard the submissions made by both the parties.
6. The main allegations of receipt of money are against the husband of the petitioner. The petitioner cannot be held vicariously liable for the acts of her husband. No doubt that the recovery is yet to be effected but this is not a Recovery Court. No amount of money is transferred in the account of petitioner. She could not do any business in America. It is tendency to draft complaint with expert mind to rope in all the family members in criminal case.
7. Since the petitioner has already joined the investigation, accordingly the present petition is allowed and the interim order dated 14.07.2023 passed by this Court is made absolute, subject to the conditions that she shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C. Further, the petitioner shall furnish her mobile number to the SHO concerned, keep her mobile's location on and also appear in the concerned Police station as and when required by the concerned SHO. Petitioner shall disclose her residential address to the police and shall not change the same without informing the concerned police.
8. Petition is accordingly disposed of.

30.09.2024*renu***(GURBIR SINGH)
JUDGE****Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No**