



CRM-M-32520-2024

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**208 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-32520-2024

Date of decision: 9th August, 2024

Harjit Kaur @ Dimpi

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petitioner is seeking benefit of pre-arrest bail in case arising out of FIR No. 80 dated 08.06.2024 registered under Section 381 of IPC, 1860 at Police Station Dinanagar, District Gurdaspur, Punjab on the basis of statement recorded by the complainant Rajni on 08.06.2021 alleging therein that the present petitioner was employed by her as her domestic help and had been doing work in her house by coming to her house at 12:00 PM on routine basis. In February, 2024, her husband who was running a cement shop disclosed to her that some of the amount of money, which he used to bring from his work place was noticed to be missing by him. On hearing so, the petitioner became vigilant and started keeping a watch. On 21.04.2024, the petitioner was doing household work in the house of the complainant. The complainant who was earlier busy in some other



work, went to her room and found that an amount of Rs. 10,000/- which was kept by her husband under the pillow of the bed, was missing. On asking about that money, the petitioner returned the same to the complainant by saying that she had taken that money at the time of cleaning. The complainant then checked her house and found that some gold ornaments and coins, silver coins and cash amount of Rs. 2,00,000/- kept in her almirah was missing. On the next day, when the petitioner came for work, on asking, she confessed that she had taken away those articles and assured to return the same but thereafter she did not come to her house for working. As such, she prayed for taking action against the petitioner. After registration of FIR, investigation is under way. Apprehending her arrest, the petitioner had moved an application for grant of pre-arrest bail before the learned trial Court which had been dismissed vide order dated 29.06.2024.

2. 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. There is delay of forty-five days in reporting the matter to the police and this delay has been utilized by the complainant to concoct a false story. FIR has been got lodged by the complainant only to satisfy her ego as infact, she herself had not been making regular payments of the salary of the petitioner and when the petitioner left her job, she felt offended and lodged this case against her. Her custodial interrogation is not required. She is ready to join investigation. No recovery is to be effected from her. Therefore, it is argued that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is argued



by learned State counsel that the recovery of the stolen articles and money is to be effected from the petitioner. She has been specifically named in the FIR. No extra ordinary or sparing circumstance has even otherwise been made out for the purpose of extending benefit of bail to the petitioner. Therefore, it is argued 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 committed theft of gold and silver articles as well as cash amount of Rs. 2,00,000/- from the house of the complainant. For effecting recovery as well as for conducting thorough investigation in the matter, custodial interrogation of the petitioner is required. The petitioner has failed to point out any extra ordinary and exceptional circumstances thereby making her entitled to seek benefit of pre-arrest bail. It is well settled proposition of law is that the powers under Section 438 of Cr.P.C. are extra ordinary powers which are to be exercised in exceptional and sparing circumstances and the same should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. 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. Keeping in view the nature of the subject offences and no extra ordinary circumstance is shown to have been made out in this case, I am of the considered opinion that custodial interrogation of the petitioner is required for conducting thorough investigation in the matter by the police. Accordingly, no ground



for extending benefit of pre-arrest bail is made out. Hence, the petition stands 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

9th August, 2024
Parveen Sharma

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