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107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37645-2024

Date of Decision: 05.08.2024

Madhu Bala

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. R.K. Saini, Advocate, for the petitioner.

Mr. Sumit Jain, Addl. AG, Haryana.

Rajesh Bhardwaj, J.

1. The petitioner has approached this Court praying for grant of anticipatory bail in a case FIR No.03, dated 03.01.2024, registered under Section 406, 420 IPC, at Police Station Panjokhra, Ambala.

2. Adumbrated facts of the case are that complainant, namely, Mehak lodged the FIR with the Police on the allegations that she was interested in going abroad and in the year 2022, her relative Madhu and her husband Sanjay told her that they know one agent, namely, Komal, who can done her work of going abroad. On their assurance, the complainant and her father talked to Komal and she told them to pay Rs.35 lacs. Madhu and her husband also gave guarantee for getting the work done. On their assurance, father of the complainant gave Rs.32 lacs. However, they found themselves cheated as neither the visa/ticket was given to the complainant nor money was returned to them. It was alleged that the complainant knew the petitioner and it is on her assurance, the complainant fell in their trap and thus, found cheated with heavy amount. Request was made to take legal action against the culprits. On the registration of the FIR, the investigation commenced.

Apprehending arrest, the petitioner approached the Court of learned



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Additional Sessions Judge, Ambala for grant of anticipatory bail, however, after hearing both the sides, the Court declined the same vide order dated 20.02.2024. Aggrieved by the same, the petitioner is before this Court praying for grant of anticipatory bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He submits that there are vague allegations made by the complainant against the petitioner and no offence as alleged under Section 420 and 406 IPC, is made out against the petitioner. It has been submitted that there being no reliable evidence to connect the petitioner with the alleged offence, false implication of the petitioner is writ large. He submits that the petitioner being a distant relative of co-accused Komal, has been falsely implicated in this case. He submits that there being no prima facie case made out against the petitioner, hence, she deserves to be granted anticipatory bail.

4. However, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner and her husband are the main conspirators in alluring the innocent complainant. He submits that father of the complainant arranged heavy amount as demanded by the accused who were introduced to the complainant by the petitioner and her husband. He submits that educational qualification certificates, passports etc. of the complainant are also with the accused. It is submitted that the accused in conspiracy with the co-accused have succeeded in their evil plan and thus, the complainant was cheated by duping her for an amount of Rs.32,00,000/-. He further submits that for the free and fair investigation, custodial interrogation of the petitioner is



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required and hence, there being no merit in the present petition, the same deserves to be dismissed.

5. Heard.

6. After hearing learned counsel for the petitioner and perusing the record, it is apparent that the complainant lodged the FIR on the basis of the specific allegations made against the petitioner and her husband and other co-accused. There are allegations that the petitioner was in relation with the complainant, who introduced the co-accused to the complainant. It is on the assurance of the petitioner and her husband, the complainant's father deposited the amount in the accounts of the various accused. It is also alleged that the educational certificates and passport etc. of the complainant are also in the custody of the accused.

7. Hon'ble Supreme Court in **State represented by CBI Vs. Anil Sharma**, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police



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Officers would conduct themselves in task of disintering offences would not conduct themselves as offenders.”

8. Hon’ble Apex Court in plethora of judicial precedents including **Gurbaksh Singh Sibbia Vs. State of Punjab**, AIR 1980 SC 1632, has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of his fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which should be exercised in the extraordinary circumstances.

9. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of the petitioner has been *prima facie* found. The investigation is at its threshold. Thus, granting anticipatory bail to the petitioner at this stage would scuttle the ongoing investigation.

10. In view of the facts and circumstances of the present case, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

11. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

05.08.2024

sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No