HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
****
CRM-M-43376-2023
Date of decision: 10.01.2024
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Meera Sharma ... Petitioner

VS.

UT Chandigarh ... Respondent
****

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL
****

Present: Mr. Suresh Verma, Advocate for the petitioner

Mr. Rajiv Vij, APP, UT Chandigarh
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Sandeep Moudgil, J.

The petitioner seeks anticipatory bail in case FIR No.226 dated 29.12.2022 under Sections 406/420/120-B IPC registered at Police Station Sector 39, Chandigarh.

The brief facts of the case as mentioned in the FIR read as under:-

"With due respect and utter regards Shubham Dhiman S/o Sh. Devinder Kumar R/o House No. 122, Sector 38-A, Chandigarh, wants to submit my complaint before your good self for your kind notice and consideration and for the legal action against the above stated in the month of Dece.er, 2019, the accused Abhinandan Singh came in contact with m as he started staying with his cousin Brother namely Rohit Kumar Singh in my society locality at House No. 1301, Sector-"38 A, Chandigarh. Thereafter he developed friendly relations with me and he introduced his cousin brother namely Rohit Kumar Singh his wife Meera Sharma and their other Family members whose names are stated in the subject. Sir, at that time they all allure me and my other family member regarding financial investment and in good faith I and my other family members came in their talks and I initially invested Rs. 1 Lakh which I had given in cash to Rohit Kumar Singh and Meera Sharma I invested Rs. 1 Lakh in January, 2020 and the said amount was

given through bank account transfer to Rohit Kumar Singh again Rs. 1 Lakh in February, 2020 was given through bank account transfer to Rohit Kumar Singh and thereafter in the month of March, 2020 Rs.3 Lakh to Rohit Kumar Singh through bank transfer as well in cash. During that time the accused Rohit Kumar Singh and against the said investments they issued an agreement dated 27.01.2020 stating that he will pay Rs.20% revenue of the principal amount invested by me as stated above copy of the agreement dated 27.01.2020 is attached as Annexure C-1. Sir, in the month of May 2020 the accused namely Meera Sharma, Aprajita Singh, Lalita Devi and Shivaji Singh approached me and allure me by showing a good financial investment with the gain of 30% return on the said investment again came that in their talks as at that time they gained my trust and accordingly I invested Rs. 5 Lakh which was transferred in the company account of Rohit Kumar Singh and Meera Sharma and the name of the said Company is Earnedly Financial Services Private Limited it is important to state here that Rohit Kumar Singh and Meera Sharma were directors of this company which was registered in the address which belongs to Madhu Sharma who is a mother in law of Rohit Kumar Singh. It is also important to state here that Madhu Sharma is also hand in gloves with Rohit Kumar Sharma And She also have a big role to play in the Criminal conspiracy committed by all of them. Sir, in the month of June, 2020 Rs. 19 Lakh were transfer in the account of the Company namely Private Limited this company also belongs to above stated accused persons are Rohit Kumar Singh and Meera Sharma are the directors of the above stated company at that time. This amount was transferred by me from my father's account i.e. account no. 001934021000657. Thereafter in the month of August, 2020, Rs. 5 Lakh was given in cash to Rohit Kumar Singh and this amount was admitted by him on a telephonic conversation in between me and Rohit Kumar Singh The said telephonic conversation with other conversations and proofs are *attached along with the present complaint in the shape of pen drive. Sir, in the month of November 2020, the accused persons again approached me for the money and allures me by saying that they will pay me 5% per month interest on the said amount and I again came in their talks and I paid a sum of Rs. 12 Lakh to the accused persons this amount was released through bank transfer as well as in cash as per the demand of the accused persons. The bank account statement is attached herewith as Annexure C-2. It is important to state here that the amount which I had withdrawn in cash was given to the accused in cash and the same is reflected in the whats-app chat of the same date. The copy of the Account Statement which reflects the release of the amount of the accused person and the same is Annexure C-3. The whatsapp chat in which it is clearly reflected the above stated amount was given to the accuseu persons in cash. Sir, in the month of December 2020, Rs. 8 Lakh was transferred in the account of the company of the accused person on dated 31.12.2020. This amount was also by me from my father account and the same is reflected in Annexure C-2. Thereafter again in the month of January 2021, Rs. 2 Lakh was transferred in the account of the company of the accused and on dated 14.01.2021, Rs. 8 Lakh was given in cash to the accused persons namely Madhu Sharma and Lalita Devi in the presence of Aprajita Singh. It is important to state here that Aprajita Singh is a master mind of the whole conspiracy as she always takes the benefit of the blind trust of the innocent persons. Sir, in the month of December 2020, I also paid Rs.7 Lakh in cash for the investment in Share Market through the accused persons as at that time Meera Sharma alongwith Aprajita Singh allure me for investment in the Share Market. They also assured me that they will make the investment in my name and I will get the direct benefit from the said shares and they will take 5% from me as commission on the profit but till today neither they had invested any money nor they returned the said amount to me besides several requests made by me, Sir in* *month of the April 2021 the accused demanded Rs. 5 Lakh on the pretext that he was under financial crises as the officials of the income tax raided and ceased his accounts and Assured me that he will return the said amount with in next 3-4 months. He also told me that he fixed the matter with the income tax officials and in order to settle the dispute he paid Rs. 650 Lakh as bribe to the income tax commissioner The telephonic conversation in this regard is also reflected in the pen drive attached with the present complaint i.e. Annexure C-4. It is importantly state here that I had given this amount after taking gold loan by mortgaging the gold of my mother from Muthoot Finance. Sir, in the month of May 2021 1 again paid a sum of Rs. 5 Lakh to him after taking the same on interest. This amount is also acknowledged by the accused person in the telephonic conversation. Sir, in the month of February 2022 I again paid a sum of Rs. 25 Lakh to him which was transferred by me in the account of the accused from my sisters account Bearing No. 50100100592190. The copy of the account statement of my sister reflecting the transfer of the above stated mount and the same is attached herewith as Annexure C-5. This amount is also acknowledged by the accused person in the telephonic conversation. Sir, during the process of the above stated money transaction the accused persons in order to gain my trust time and again played foul play with me as in the month of November 2021 he send me the copies of two cheques total amounting to Rs. 1 Crore and assured me that he this amount of Rs. 1 Crore in the account of my mother namely Anjali Bala and the same will be transferred soon I again came in his words and trusted him but he was taking undue advantage of my innocent approach towards him. The copy of the cheques which the accused person to me are attached herewith as Annexure C-6 and Annexure 7. All the accused persons are actively involved in the criminal conspiracy and the fraudulent act they used to managed the official activities jointly. The accused Lalita Devi (mother of the accused namely Rohit the* *was looking after official activities. The photocopy of the photographs of the accused Lalita Devi performing official activities in their office and the same is attached as Annexure C-8. Sir, during that time he allure me by offering me a job company Earnedly Financial Services Private Limited which he was running from SCO (323, First Floor,, Sector 38 D, Chandigarh. I joined his company on his request and I working in his office but after some time not paying the salary from October when he was thereafter waited I for some time and 2021 left the job. Sir, the accused in order to impress the innocent people use to carry four mobile worth more than Rs. 5 Lakh and also maintaining expensive luxury cars like Range rover, Ford Endevour and XUV500 total worth more than Rs. 1.5 crores. He is also maintaining a motor cycle make larley Davidson worth more than Rs. 10 Lakh. The accused namely Rohit Kumar Singh told me that he is finalizing a deal with some sheikhs of Dubai and he will get Rs. 5000 Crores within few months and there after he told me that the payment was delayed as the said money is coming from some terrorist based countries. This conversation was also recorded by me and the same is also reflected in the pen drive attached with the present complaint. He is also make excuse to me for delaying my payment that his bank lockers were freezed and the gold biscuits and the property papers of Sector 16 house are lying in the said locker and the moment his locker got free, he will return my entire amount. Sir, now from the last several months I am regularly in touch with the accused persons and demanding my money i.e. more than Rs 90 Lakh but all the time the accused persons are making excuses from one pretext or the other. The accused person neither denying for returning my amount nor returning my amount as stated above. I am left with no other option as now the accused namely Rohit Kumar Singh started threatening me that he will commit suicide and blame me for the said Act. Now I am in a deep trouble and I need the assistance of your goodself so that I will get my money back and further legal* *action against the above stated accused persons. Now all the accused persons were shifted to Bangalore, Karnataka. It is important to state here that the accused Rohit Kumar Singh and Meera Sharma resigned from the post of the Director in the above stated company and now the command of the hands of the other director who were also cited as accused in the present complaint namely Shivaji Singh and Lalita Devi. The documents reflecting the names of the directors of the company are attached herewith as Annexure C-9 Colly. It is requested before your goodself to kindly take cognizance on my present complaint and necessary directions may kindly be issued for registration of FIR against all the above stated persons. I shall be highly thankful to you. Regards. Shubham Dhiman…"*

Learned counsel for the petitioner contended that he has been falsely implicated in the present case. She was just a dummy Director of the said Company of her husband and had not received any amount from complainant. Rather complainant was appointed Deputy Manager in this Company who had invested Rs.53,00,000/- with the Company on different occasions. Against that amount Rs.25,00,000/- stood returned to him and to his family members. He has falsely alleged that the amount invested being is of Rs.90,00,000/-.

It is urged that the petitioner recently gave birth to a female child on 115.07.2023; she is very weak and suffering from post-pregnancy problem and issues facing lot of trauma and stress due to false and frivolous FIR. It is contended that the petitioner was not given any notice under Section 41-A Cr.P.C. and the complainant rather had played fraud with the employer-Company and complaints against him were filed with police on which no action was taken.

It is further submitted that nothing is to be recovered from the petitioner and if she is admitted to anticipatory bail, she is ready to join the investigation. In support of his arguments, learned counsel has referred to ***Sei Minthang Touthang Vs. Officer-in-Charge Moirang Police Station, (Cr.MP(M), No. 243 of 2021)***, decided on 24.07.2021 wherein regular bail was granted to a lady accused.

On the other hand, learned APP, UT Chandigarh vehemently controverted the version of the petitioner adding that along with the complainant many others were cheated by the petitioner in this case as the complainant had invested Rs.85,00,000/- with their Company and was cheated off this amount along with many others like Shruti Kumari who also stood cheated by the petitioner of huge amounts and since recovery of this amount is yet to be effected and also that the petitioner is absconding as the her place was raided on 10.05.2023, she does not deserve any concession of anticipatory bail by this Court.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. As per the prosecution, the petitioner with the help of her family members grabbed huge amounts of innocent people on allurement of healthy returns. There are plenty of other complainants who have been cheated in similar manner. Furthermore, investigation is still going on in the present case. For thorough investigation of the case and for recovery of cheated amount, custodial interrogation of the petitioner is necessary. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases.

There cannot be any doubt that the custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he/she is well protected and insulated by a pre-arrest bail order during the time he/she is 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 is mechanically advanced by all accused in the criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

10.01.2024 **(Sandeep Moudgil)**
V.Vishal **Judge**

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