IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

SR. No.104

CRM-M-44361-2024
Date of decision:09.09.2024

Hardeep Kaur

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr.G.S. Dhillon, Advocate for the petitioner.
Mr. I.P.S. Sabharwal, DAG, Punjab.

N.S. SHEKHAWAT, J.

1. The present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhta, 2023 (for short `BNSS, 2023') for grant of anticipatory bail to the petitioner in FIR No.155 dated 18.07.2024 under Sections 408/420 IPC registered at Police Station City Sangrur, District Sangrur.

2. The FIR in the present case was registered on the basis of a complaint received from Vijay Arora, Area Manager, Operations, M/s Muthoot Fincorp Limited, Sangrur, who had levelled the allegations of a criminal conspiracy, cheating, forgery, criminal misappropriation and criminal breach of trust against petitioner-Hardeep Kaur, In charge of the Branch and others officials. As per the complainant, M/s Muthoot Fincorp Limited (for short `the Company') was a company constituted under the Companies Act, 1956 and was one of the largest Non-Banking Financial

Companies in India. The Company was predominantly into the gold loan business, besides providing other financial services to its customers. The Company had a system of regular gold audit in all its branches, which was conducted once in every three/four months in order to weed out any instances of fraud/oversight by the staff and to ensure that customer gold and payment are properly accounted for, recorded and safely maintained. During the audit dated 04.04.2024, it was found that the petitioner and other named accused had committed various acts of cheating, forgery, criminal breach of trust and criminal misappropriation against the Company to the tune of Rs.39,16,138/-. It was further found during investigation that in 13 Gold Loan accounts, the accused had intentionally changed the ownership of some customers and elevated the gross weight of the ornaments for personal gain. In CCTV footage, it was also noticed that in cases, where there was ownership change and elevation of gold shown, the loan amount sanctioned was not given to the customer. The customer was only present for photo validation and not for any other formalities. Even the actual owners of the gold ornaments were not aware of the ownership change or elevated weight of gold. Further, the ownership of the spurious ornaments were changed and cash was misappropriated by them. It was also found that Raj Kumar was a vegetable vendor outside the branch office and by misusing a UCIC number of Raj Kumar, huge amounts were misappropriated. Even 32 gold loan pledges were found in the UCIC of Raj Kumar in one year, but the gold did not belong to him. The total pledge amount was Rs.35,69,099/- and the present outstanding amount was Rs.10,66,057 from six accounts. It was further found that Raj Kumar used to be called to the branch only for photo validation and signatures. Similarly, the ownership of elevated packets were changed and cash was misappropriated. Apart from that, similar procedure was adopted in case of Buta Singh, wherein also, the ownerships were changed in multiple gold accounts without the knowledge of the customers and the cash was misappropriated. In 13 cases, part payment of Rs.5,05,878 was received from the customers, but it was not remitted to the accounts of the concerned customers and the amount was misappropriated by the accused. Even multiple Domestic Money Transfer transactions were there in the name of branch staff and their relatives, which were to be investigated. In a detailed FIR, wherein specific allegations have been levelled against all the accused including the petitioner, it has been mentioned in detail that these accused had entered into a criminal conspiracy to cheat the complainant company to the tune of Rs.39,16,138/-. With these broad allegations, the FIR was got registered by the complainant-company against the petitioner and other co-accused.

3. Learned counsel for the petitioner contend that the FIR in the present case was registered on 18.07.2024 under the provisions of the Section 154 Cr.P.C. and BNSS had already come into force w.e.f. 01.07.2024. Thus, the FIR has been registered by invoking a provision, which was not in force. He further contends that though the allegations in the present case had been levelled against four officials of the complainant-company, but the FIR has been registered only against the present petitioner. In fact, similar allegations had been levelled against co-accused namely Rani Kaur and Amrinder Singh, but they had not been arrayed as an accused in the present case. Still further, there was no specific allegations against the present petitioner and she has been made a scapegoat in the present case.

Learned counsel further contends that in the present case, even the petitioner was subjected to sexual harassment and threats were extended to her, but no action was taken by the police on the complaints submitted by the present petitioner. He further contended that in the present case, the petitioner herself was a victim, who has been falsely involved by the complainant. Moreover, the father of the petitioner had suffered a heart attack and passed away on 19.08.2024. Thus, the case of the petitioner deserves sympathetic consideration by this Court.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by the counsel opposite on the ground that the petitioner was In charge of the Branch, where the entire scam had taken place. Even a detailed audit report regarding the irregularities and misappropriation of ornaments and gold loan was conducted and it was specifically found that the petitioner was heading a group, which was indulging in criminal conspiracy, cheating, forgery, criminal misappropriation and criminal breach of trust. Even she had deliberately inflated the weight of ornaments and had arranged 21 gold loans for a total amount of Rs.35,67,456/-. Even in 13 cases of gold loan accounts, the customers of the company were given the loan proceeds much less than the actual amount sanctioned and the balance amounts were taken by the petitioner for her personal financial needs. Even the manipulations were made in the gold loan accounts in the name of the customers without their knowledge and a huge amount was misappropriated by her.

5. I have heard the learned counsel for the parties and perused the case file minutely.

6. The FIR in the present case was registered under Section 154 Cr.P.C. and not under the provisions of the Bharatiya Nagrik Suraksha Sanhita, 2023, as the software of Punjab Police has not been updated and the petitioner cannot take advantage of the same. Admittedly, the petitioner in the present case was the In charge/Manager of the Branch of the complainant-company, where she conspired with her co-accused to commit the above-said offences. There is a detailed gold loan audit report, which clearly stated the petitioner and her co-accused had caused loss to the tune of Rs.39,16,138/- by intentionally changing the ownership of gold of some customers and had also elevated the gross weight of the ornaments for personal gain and had misappropriated huge amounts which were to be deposited in the accounts of the customers. Further, 32 gold loan were shown to have been given to one Raj Kumar, who was running a kiosk outside the branch and had never taken any loan. Apart from that, it was also found that the petitioner had received payments from 13 customers, but did not account for the same in the branch and lakhs of rupees were misappropriated. Even though, the father of the petitioner had expired on 19.08.2024, but the same is not a ground to grant the discretionary relief of anticipatory bail to her.

7. In view of the above, the present petition is hereby dismissed.

8. The above observations have been made by this Court only for the limited purpose of disposal of pre-arrest bail petition and the trial Court shall decide the case, on the strength of the evidence led by both the parties.

(N.S. SHEKHAWAT)
JUDGE

09.09.2024
mks

Whether Speaking/Reasoned: **YES / NO**
Whether Reportable: **YES / NO**