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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.49181 of 2024
Date of decision: 18.10.2024

Harjit Kaur ... Petitioner

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Malhar Singh Dhami, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in case arising out of FIR No.119 dated 26.05.2024 registered under Sections 420, 506 and 120-B of IPC at Police Station Tanda, District Hoshiarpur.
2. Briefly stated, the facts relevant for the purpose of disposal of the present petition are that a complaint lodged by the complainant Joginder Kaur was received by Senior Superintendent of Police, Hoshiarpur on 11.07.2023 and then on 14.09.2023, alleging therein that the accused Mukhtiar Singh who is his nephew along with his son Manjit Singh requested her to lend an amount of Rs.15 lakhs for sending his

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daughter-in-law abroad. The complainant was not having this much money. The accused Mukhtiar Singh induced her to mortgage her property with some bank to avail the amount of Rs.15 lakhs and to give the same to him by assuring that he would return the entire money to the bank along with interest accrued thereon within a period of six months. Believing the accused Mukhtiar Singh and Manjit Singh, the complainant agreed to do so. Both of them then got sanctioned loan for a sum of Rs.15 lakhs by mortgaging her property with Canara Bank, Tanda Branch. After the loan amount was credited in her bank account, the complainant transferred an amount of Rs.5 lakhs in the bank account of Mukhtiar Singh and Rs.10 lakhs in the account of the present petitioner who is wife of Mukhtiar Singh on 26.02.2019. The complainant alleged that now a period of five years had passed but the accused had neither been making repayment of the loan amount to the bank nor were giving the money back to her and thereby they had cheated her. She also alleged that the co-accused Mukhtiar Singh and Manjit Singh even were extending threats to her.

3. As per the allegations, inquiry was conducted on the complaint lodged by the complainant and a report was filed by an officer of rank of DSP that the petitioner and co-accused had cheated the complainant by inducing her to take loan of a sum of Rs.15 lakhs by mortgaging her property and by taking the loan amount from her by representing that they would pay the same back to her and with mala fide intention to

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cause wrongful loss to the complainant. After registration of FIR, investigation proceedings have been initiated and are underway. Apprehending her arrest, the petitioner moved an application for pre-arrest bail which was dismissed by the Court of learned Additional Sessions Judge Hoshiarpur vide order dated 12.08.2024.

4. It is argued by learned counsel for the petitioner that she has been falsely implicated in this case. The subject offences are not made out as against her. There is no allegation that she had made any inducement to the complainant. The only allegation against the petitioner is that an amount of Rs.10 lakhs had been transferred in her bank account and had not been paid back. The complainant has already filed a civil suit. The dispute between the parties is of civil nature but has been given a cloak of criminality. Her custodial interrogation is not required. She is ready to join the investigation. Her detention would not serve any useful purpose. As such, it is urged that she deserves to be extended benefit of anticipatory bail.

5. Status report has been filed. It is argued by learned State counsel that the allegations against the petitioner are serious in nature as she along with her husband and son, hatched a conspiracy to cheat the complainant by inducing her to take loan of a sum of Rs.15 lakhs by mortgaging her property, by taking the said amount of loan by representing that the same was required for sending the daughter-in-law of the petitioner abroad and that they would return the same within six

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months and then by not returning the same. The mala fide on the part of the petitioner and co-accused is explicit. Though a sum of Rs.12 lakhs have been paid to the grandchildren of the complainant on her asking by the petitioner and co-accused in their respective bank accounts, however, the remaining loan amount along with interest accrued thereon has not been returned thereby causing wrongful loss to the complainant. It is argued that the custodial interrogation of the petitioner is required for thorough investigation in the matter. No exceptional ground warranting grant of pre-arrest bail has been made out in favour of the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

7. The petitioner in connivance with the co-accused is alleged to have induced the complainant to get her immovable property mortgaged with a bank and then to transfer the loan amount of Rs.15 lakhs in the name of the present petitioner and her husband i.e. co-accused Mukhtiar Singh. As per the allegations, the petitioner and the co-accused had assured the complainant to return the loan amount along with interest to her bank within six months. A period of more than five years have been expired. However, only an amount of Rs.12 lakhs has been repaid by the petitioner and co-accused. Most of this amount has been paid after lodging of the complaint as against the petitioner and the co-accused. A

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widow lady has been duped of huge amount of money by mortgage of her land by the act and conduct of the petitioner and the co-accused. The allegations against the petitioner are serious in nature. The filing of civil suit for recovery of money does not bar seeking penal action as against the petitioner. It is well settled proposition of law that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses and likelihood of fleeing justice. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. The investigation is at its nascent stage. In view of the above discussed facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

18.10.2024

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No