

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-54504-2023

Date of Decision : 29.02.2024

SURINDER KAUR

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Anuj Balian, Advocate,
for the petitioner.

Mr.Abhinash Jain, DAG, Haryana.

KULDEEP TIWARI. J.(Oral)

1. On 26.10.2023, the following order was passed by this

Court:-

“The petitioner has filed the present petition for grant of anticipatory bail in case FIR No. 157 dated 9.8.2023, under Sections 406, 420 IPC, registered at Police Station Gulha, District Kaithal.

Learned counsel for the petitioner submits that the petitioner is herself a victim of the fraud committed by the complainant and, therefore, she has filed a criminal complaint before the learned Judicial Magistrate 1st Class, Gulha, Kaithal, wherein she has given the entire narration with regard to the fraud being committed upon her and the learned Judicial Magistrate 1st Class on receiving of the complaint has sought action taken report from the SHO concerned, vide order dated 27.7.2023 (Annexure P-2) and the moment the order was received in the police station, the present FIR was registered by the complainant on the ground that the petitioner has cheated the complainant on the pretext of sending him abroad.

As per the FIR, the allegations against the petitioner is that she received Rs.3 lacs on 16.1.2023 in her bank account for sending the complainant to Portugal on work permit basis. However, she did not fulfill her commitment and also did not return the said amount. Both the petitioner and the complainant levelled counter allegations against each other for committing the offence of cheating for sending them abroad.

Notice of motion for 8.1.2024.

On the asking of the Court, Mr. Gurmeet Singh, AAG, Haryana accepts notice on behalf of the State of Haryana.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to her furnishing personal and surety bonds to the satisfaction of the Arresting/Investigating Officer concerned. The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under Section 438(2) of the Cr.P.C.”

2. Vide order dated 08.01.2024, the petitioner was again directed to join investigation and to fully co-operate with the investigating officer, in view of the reply dated 06.01.2024, wherein petitioner is stated to have not fully co-operated with the investigating officer.

3. Today, again learned State counsel has filed a status report dated 28.02.2024, by way of an affidavit of Mr.Kuldeep Singh, DSP, Guhla, District Kaithal, in Court, which is taken on record and submits, on instructions to him by ASI Subash Chander, he submits that though the petitioner has joined the investigation, but has not fully co-operated with the investigating officer, as the petitioner did not get the recovery effected.

4. A perusal of the status report also reveals that the petitioner has joined the investigation twice with the investigating officer concerned, however, she failed to get recovered, cheated amount of Rs.5.00 lakhs.

5. Be that as it may be, since the petitioner has joined the investigation and present *lis* cannot be converted into a suit of recovery, and the prosecution has to establish the charges as levelled against the petitioner before the learned trial Court concerned during trial, and merely because the alleged money could not be recovered, the asked for relief of pre-arrest bail cannot be declined specifically when the offence for which the maximum sentence is prescribed upto 7 years.

6. In view of the above, the present petition is allowed, and order dated 26.10.2023 is, hereby, made absolute, on the terms and conditions as envisaged under Section 438(2) of the Cr.P.C.

February 29, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No