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**287 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-57684-2023

Date of decision: 29th July, 2024

Sukhwant Kaur

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rajesh Bhateja, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Wazir Singh, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

Prayer in this petition has been made by the petitioner seeking benefit of pre-arrest bail in case bearing FIR No. 663 dated 22.09.2023 registered under Sections 406, 420 of IPC, 1860 and Sections 10, 24 of Immigration Act, 1971 (Section 506 of IPC added later on) at Police Station Sadar Thanesar, District Kurukshetra.

2. On 13.2.2024, the petitioner was directed to join the investigation and the following order was passed by this Court:-

“The present petition has been preferred seeking grant of anticipatory bail to the petitioner in case FIR No.663 dated 22.09.2023, under Sections 406, 420 IPC, 1860 (Section 506 added later on) and Section 10 and 24 of Immigration Act,



1971, registered at Police Station Sadar Thanesar. District Kurukshetra (Annexure P-3).

Learned counsel for the petitioner taking through FIR submits that the petitioner had no role to play except for booking the tickets on asking of one-Balwinder Singh, who she knew because he lives in the same city. By virtue of the applications and annexures annexed therein, the learned counsel for the petitioner has demonstrated that the petitioner had been booking tickets for the clients of the main accused-Balwinder Singh and admits to have received certain amounts from the complainant but for the same appropriate tickets were issued qua Surinder Singh.

Be that as it may, the petitioner is ready to cooperate with the investigation and has no sympathy or connection with the main accused- Balwinder Singh except for business dealings and submits that she will depose absolutely in truthful manner and it does not bother her, and if Balwinder Singh is at fault, he will face the consequences.

Per contra, learned State counsel assisted by the counsel for the complainant has vehemently opposed the grant of concession to the petitioner on the ground that the petitioner is a part of the larger conspiracy and the one who takes the money in her account for circulation of money and her -2- custodial interrogation would be required as it has to be seen



that the bills of the tickets relied upon by the petitioner are genuine or not. As it is a positive case of the complainant that the victim-Surinder never travelled on these tickets.

After hearing the counsel for the parties, all the issues raised by the complainant are kept open and the Investigation Officer shall look into the same from all the aspects also and verify as to whether actual tickets, against the bills produced by the petitioner were issued or not and also whether any such tickets were subsequently got cancelled or not.

Notice of motion.

Mr. Tanuj Sharma, AAG, Haryana, accepts notice on behalf of the respondent-State.

In the meanwhile, the petitioner is directed to join investigation on 19.02.2024 at 11:00 A.M. before the Investigating Officer and cooperate with the Investigating Agency, even thereafter.

The petitioner has volunteered to give a heavy surety of at least Rs.2,50,000/- and she shall be released on interim bail against heavy surety of at least Rs. 2,50,000/-, subject to the satisfaction of the Arresting/Investigating Officer.

In the event of arrest, the petitioner be released on interim bail, subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer and the petitioner shall abide by the conditions envisaged under Section



438 (2) Cr.P.C.

Adjourned to 19.03.2024. Status report be filed.”

3. Status report has been filed by the respondent-State, as per which, the petitioner has joined the investigation on 19.02.2024 and 29.04.2024. She got recovered one ticket bearing No 2359605904747 & 134-1188470424 and PNR No. 3SSQBB from Istanbul (Turkey) to Panama City (USA) dated 17.03.2023, which was issued on the passport of victim Surinder Kumar bearing passport No. W4429970. The investigation had revealed that the petitioner along with co-accused Balwinder Singh had obtained an amount of Rs. 9,97,000/- in the account of account of her firm Dhaliwal Enterprises. She had not got effected recovery of the above said amount. Learned State counsel has argued that custodial interrogation of the petitioner is very much required as she did not co-operate with the investigating agency at all while joining investigation. She had caused huge loss of money to the complainant. Therefore, it is urged that the petition does not deserve to be allowed.

4. Learned counsel for the petitioner has argued that she deals with the business of only air ticketing and had issued tickets in the names of victims through the complainant. She had no connection with the co-accused Balwinder Singh, who is a travel agent. Infact, the complainant and co-accused had mutual dealings with each other.

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



6. As per the allegation, the co-accused Balwinder Singh who was the kingpin of the crime had induced the complainants by representing that he could manage to send their acquaintances/relatives abroad on spending an amount of Rs. 40,00,000/- each. On being allured by him, the complainants had told him to send the nephew of the complainant-Sunil Kumar and three of their acquaintances abroad. The accused Balwinder in connivance with the co-accused managed to grab an amount of Rs. 1,17,75,250/- from the complainant/ their acquaintances/ relatives. Three of them were initially sent to Thailand, Vietnam and Dubai but the accused called them back on some pretext and extracted money in the name of sending them to the USA via Dubai. He also got transferred an amount of Rs. 9,97,000/- in the bank account of the Dhariwal enterprises, Moga owned by the present petitioner by showing that for the said amount of money tickets were to be purchased. The allegations levelled against the petitioner pertained to procuring deposit of an amount of Rs. 9,97,000/- from the complainants in the name of booking tickets. As per the petitioner, she is only dealing with Air ticketing and on being approached by the accused Balwinder Singh, she had issued tickets in the name of victims Lakshay, Surinder and Krishan Pal. It is claimed that all three of them travelled to their respective destination on the aforementioned tickets.

7. It is relevant to mention here that direction had been given to the Superintendent of Police, Kurukshetra for giving intimation regarding travel history in connection with the tickets relating to the present case and to provide details as to whether actual tickets against the bills produced by

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the petitioner were issued or not. As per the fresh status report, the details on this point have not been received but it is reported that the petitioner got recovered details of only one ticket issued on the passport of victim Surinder Kumar and has not co-operated with the investigating agency with regard to the remaining details. Admittedly and evidently an amount of Rs. 9,97,000/- was deposited in the bank account of M/s Dhaliwal which is admittedly owned by the petitioner. Though the petitioner is claiming that the victims had actually used those tickets and had travelled on the same, however, there is no explanation on her part as to whether the tickets so issued were worth the amount of Rs. 9,97,000/-. She has also not produced any proof regarding actual travel of the victims on these tickets. There are specific allegations with regard to her complicity in the crime in connivance with the co-accused Balwinder Singh. It is irrelevant at this stage, as to whether the part played by the petitioner was major one or not? The respondent-State has been claiming that custodial interrogation of the petitioner is a must for conducting proper investigation in the matter. Though, she has joined the investigation but she has not co-operated with the investigating agency. It is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of granting anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discussion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant fleeing from justice and other factors to decide whether it is a fit



case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extraordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
9. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

29th July, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No