

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-64350-2023

Date of Decision : February 21, 2024

Teena MalhotraPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Tushar Wadhwa, Advocate for the petitioner
Mr. Kewal Singh, Addl.A.G., Punjab.
Mr. Naveen Bawa, Advocate for the complainant

HARKESH MANUJA, J

By way of present petition filed under Section 438 Cr.P.C., prayer has been made for grant of anticipatory bail to the petitioner in case FIR No. 194 dated 10.09.2023 under Sections 420, 506, 120-B IPC, registered at Police Station Tibba, District Ludhiana, wherein the petitioner has been implicated on a complaint made by Jaspreet Singh with the allegations of having duped him of Rs.25 lacs, having induced him dishonestly, in connivance with two other co-accused, namely, Rishipal Bhura @ Kala and Tina Malhotra, to part with the money, thereby causing him huge loss.

2. Learned counsel for the petitioner submits that as per RBI guidelines, huge cash withdrawal of money from account is not permissible and thus, the story put-forth in the FIR cannot be given credence. He further submits that as per the contents of FIR, Rs.1.35 lacs was received by the complainant on 07.06.2023 in his account, but it is not believable that a person with an intention to cheat would transfer amount in bank

account. He further submits that the petitioner never persuaded the complainant to part with money. He again submits that neither the amount of Rs.1.35 lacs was transferred from her bank account; nor there is any CCTV recording to establish that Rs.25 lacs were received by the petitioner and thus she has nothing to do with the alleged offence.

3. On the other hand, learned State counsel assisted by Sh.Naveen Bawa, Advocate submits that there are specific allegations against the petitioner in the FIR to the effect that money was received by her with the promise of returning double the amount invested. He also points out that the investigating agency has the clear cut evidence in this regard, which includes withdrawal of amount of Rs.25 lacs from the accounts of complainant and his wife, which was handed over to the petitioner with active connivance of other co-accused, besides an audio recording of conversation in this regard and thus, she does not deserves the concession of pre-arrest bail as she was not cooperating with the investigation.

4. I have heard learned counsel for the parties and gone through the paper-book, but unable to find substance in the submissions made on behalf of the petitioner.

5. From the facts and circumstances as mentioned in the FIR, it is apparent that the amount of Rs.25 lacs was withdrawn and handed over by the complainant on account of a consorted and collective effort on the part of petitioner along with other co-accused which fact has even been pressed by the investigating agency, in its reply, while relying upon a mobile conversation between the complainant and petitioner, wherein she assured

the complainant about the return of the amount. So far as the argument regarding huge withdrawal of money is concerned, explanation in this regard, if any, has to be sought by RBI.

6. Keeping in view the nature of the allegations and gravity of offence committed by the petitioner in the given circumstances, who dishonestly induced the complainant to part with huge money thereby resulting into his loss, thus, in the humble opinion of this Court, custodial interrogation of the petitioner would be necessary so as to unearth the *modus operandi* adopted by the petitioner and his accomplices. Further, looking into the allegations as a whole, the *mens rea* which is one of the essential ingredients of cheating is clearly present as the amount received from the complainant through an act of deception has been retained dishonestly by the petitioner and his accomplices, against the consent of the complainant, thereby causing loss to him. Moreover, the contradictory stand taken by all the accused goes against them.

7. Consequently, the present petition is dismissed.

8. Pending application (s), if any, shall also stand disposed of.

February 21, 2024
sanjay

[HARKESH MANUJA]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no