2024:PHHC:162365

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-61199-2024
DECIDED ON: 05.12.2024

NITIN GUPTA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sourabh Singla , Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG Punjab

SANDEEP MOUDGIL, J (ORAL)

1. **Relief sought**

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.0102, dated 16.08.2024, under Section 420 of IPC, 1860, registered at Police Station Sarabha Nagar, District Police Commissionerate Ludhiana, Punjab.

2. The facts of the case in the present case as per the version in the FIR reads as under:-

> *"FIR in this case was registered when a complaint was moved by the complainant to the Commissioner of Police, Ludhiana for taking action against the accused including the present applicant with the allegations that there is a serious matrimonial litigation pending between the complainant and Nitin Gupta as well as his other family members including Sanjay Gupta. The complainant Monal Gupta alleged that Nitin Gupta is very clever person. He got opened one saving bank account bearing*

No.301322010000151 in Union Bank of India, Ferozepur Road Branch, Ludhiana, in her name. At the time of opening of this bank account, he obtained her signatures on the account opening form. However, she has never operated this account till 06.04.2023. Prior to 06.04.2023, the said account was operated by Nitin Gupta. Nitin Gupta kept the ATM Card, check book, Passbook as well as all the relevant documents with regard to this bank account with him. The net banking facility was also obtained/operated by Nitin Gupta in this account and this account was operated by Nitin Gupta through net banking by using his mobile number 98775-37477. This mobile number is also showing on the entire banking record of this account. Nitin Gupta also used to fill her IRs through his personal Chattered Accountant Anju Gupta who is his paternal aunt/Bhua. She was not aware with regard to any transaction of this bank account as well as her IRs. Wher, their litigations initiated in Court, then suddenly on 06.04.2023, Nitin Gupta handed over ATM Card as well as Passbook of her account to her. As their litigations were pending and this thing struck into her mind and she immediately went to the bank branch of this account and got changed the mobile number of Nitin Gupta into her mobile number i.e. 78148- 55535. Thereafter, on 20.09.2023, she again visited the bank branch and requested the Branch Manager to provide her the full fledge detail alongwith the transactions of this bank account, then the branch Manager provided her certain documents and she got shocked after checking the said record, because in the said record, there was one application which , was handwritten handwriting of the said application was of Nitin Gupta's handwriting. However, the said application was shown to be addressed by her, but the said application was not signed by her. In fact, Nitin Gupta forged her signatures/and filed this application to the Branch Manager. The said application was of 09.11.2021 and the said application was with regard to the request to the bank for the release of certain amount shown to be given to her as an unsecured loan on interest basis, inspite of the fact that she had never obtained any unsecured loan from any person. The said unsecured loan was shown to be given by the accused no.3 Omkar Automation for an amount of Rs.5 Lakhs @ 98, owner of one firm Dua Sales accused no.4 for an amount of Rs.14 Lakhs @ 9.58, accused no.5 Mohan Lal & Company for an amount of Rs.9 Lakhs @9%. She did not know about these firms as well as about the owner of these firms. She never met with these firms or their owners nor ever conducted any - transaction of any kind with these firms. She has never obtained any such alleged amount from these firms or its owners. It was Nitin Gupta, his uncle Sanjay Gupta, who both in connivance with each other involved in these fake

> *transactions in her name, got this amount credited in her account and got it released from her account with the help of the forged and fabricated letter dated 09.11.2021, which is neither written by her nor signed by her. It is Nitin Gupta who written this letter and forged her signatures upon it. All the accused are connived in this conspiracy, forgery, fabrication and cheating."*

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case by the complainant, who is none other than the wife of the petitioner. He further submits that there is an ongoing matrimonial dispute between the parties and, therefore, the false FIR was got registered.

On behalf of the State

Learned State Counsel appearing on advance notice, seeks dismissal of the instant petition on the ground that the allegations against the petitioner are that of serious nature, therefore, his custodial interrogation is required. Though, he could not controvert the fact that there is matrimonial dispute between husband and wife.

4. **Analysis**

Be that as it may, having given a considerable thought to the fact that admittedly there is matrimonial dispute between husband and wife and no other incriminating material is available with the prosecution to connect the present petitioner with the alleged commissioning of the offence, this Court finds no reason to deny the petitioner the concession of anticipatory bail wherein the petitioner has bona fide intentions and is ready and willing to join the investigation and cooperate in furtherance of the same so that the final report can be submitted by the Investigating Agency in time.

5. **Decision**

Hence, the petitioner is directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

> *'When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-*
>
> *(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;*
>
> *(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
>
> *(iii) a condition that the person shall not leave India without the previous permission of the Court;*
>
> *(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.'*

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

05.12.2024

Meenu

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*