

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17884-2024
Reserved on: 10.01.2025
Pronounced on: 23.01.2025

Bhawna ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mandeep K. Dhot, Advocate
for the petitioner.

Mr. Jasjit Singh, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
16	09.02.2024	City Sangrur, District Sangrur	408 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. Vide order dated 10.04.2024, the petitioner was granted interim protection, which is continuing till date.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:-

“2. That pursuant to the said order, it is submitted that brief facts of case/FIR No. 16 dated 09.02.2024 u/s 408 IPC P.S. City Sangrur are that Raj Kumar Goyal Owner of Punjab Auto and General Finance Company submitted application PGD-ID 119144 to SSP, Sangrur against Bhawna w/o Sunil Kumar, resident of Prem Basti Sangrur for registration of case against her. Inquiry into said application was conducted by Deputy Superintendent of Police (Hqrs), Sangrur, who after conducting a deep and thorough inquiry into said application submitted its report vide no. 169/5P/DSP(Hqrs) dated 19.01.2024 that Bhawna has worked/employed as a Manager in the Punjab Auto General Finance Company of Raj Kumar Goyal from 01.12.2021 to 20.01.2023. Bhawna used to prepare files related to giving loans to customers and along with obtaining loan installments from the customers, vehicle recovery work was also done and court cases were followed up. According to applicant Raj Kumar Goyal, he had

an operation in the right eye on 16.12.2022 and in the left eye on 06.01.2023 and after these two operations, he was resting for about 6 days. When his eyes were treated, during that time the keys of his office records and cupboards etc. were given to Bhawna as Manager and she also looked after all the transactions of money. Raj Kumar Goyal after resting for his eye surgery, when he came to his office, he was secretly told by the company's employees and loan holders that Bhawna had embezzled the amount by collecting the loan amount from the company's customers and records can also be manipulated by her. At the same time, on 21.01.2023, there was an argument about taking out 200/- rupees by Bhawna from mobile phone cover of Sandeep Kumar, a worker working in the company. Sandeep Kumar made a noise about dealings with the loan holders etc. by Bhawna. Being already doubted, Raj Kumar Goyal asked Bhawna to give an account details. Due to which Bhawna went out by badmouthing, threatening to implicate them (Raj Kumar Goyal and his son Manoj Kumar Goyal) in a false case. After which petitioner Raj Kumar Goyal checked his record and contacted loan holders and he came to know that when Bhawna was working as a Manager in his company, she had collected loan amount from loan holders. She received rupees 10,000/- from Kulwinder Pal, resident of village Namol, rupees 6500/- from Gurpal Singh for the transfer of name in the RC, rupees 6200/- as loan amount from Dalwinder Singh through Google Pay, about Rs.3000/- as loan recovery from Suraj Parkash and about Rs.17000/- as loan amount from Mohammad Akhtar. Amount which has been acquired at different times has not been deposited in the company by Bhawna. In this way, it has been found that Bhawna, while working as a Manager/private employee in the company, has committed breach of trust/embezzlement by obtaining money from loan holders and not depositing it in the company. So, an FIR should be registered against Bhawna under section 408 IPC and more facts need to bring forward after thorough investigation. Upon said inquiry report, legal opinion was sought and Deputy District Attorney (legal), Sangrur opined that, "from the facts, circumstances and inquiry report, I do agree with findings of inquiry officer, Conclusion of inquiry, statements of witnesses and contents of application of Raj Kumar Goyal Prima facie discloses the commission of cognizable offence. In view of law laid down by Hon'ble Supreme Court in case "Lalita Kumari Vs State of UP" case u/s 408 IPC should be registered against Bhawna. Said opinion was approved by SSP, Sangrur on 07.02.2024 and accordingly, present FIR was registered against Bhawna."

4. The petitioner's counsel prays for bail by imposing any stringent conditions. The petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. The State's counsel opposes bail and refers to the status report.

6. It would be appropriate to refer to the following portions of the status report, which

read as follows:-

“6. ROLE OF PETITIONER

Present FIR was registered against accused/petitioner Bhawna on the basis of application moved by Raj Kumar Goyal and inquiry conducted by Deputy Superintendent of Police (Hqrs), Sangrur. During the course of investigation, it was duly substantiated that accused/petitioner was an employee in the above said Finance Company as a Manager on private basis. Complainant has given Power Of Attorney in favour of Bhawna, who used to collect installments of loan from the customers and also used to collect vehicles from the loan defaulters. After receiving amount of Rs. 58700/- from various loan holders/customers/other related persons neither she did deposit the same in the account of Company nor she had given any detail of account. So, petitioner/accused Bhawna has committed fraud with the said company of an amount of Rs. 58700/-. So, a specific role is found to be attributed to petitioner in the commission of present offence.”

7. Although there is prima facie evidence implicating the petitioner but considering the amount involved and the fact that petitioner has clean antecedents and she is a woman, this Court is not inclined to send her for custodial interrogation or pre-trial incarceration.

8. There is sufficient prima facie evidence connecting the petitioner with the alleged offense; still, it is neither a case for custodial interrogation nor pre-trial incarceration. Although the evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing the same for the bail stage.

9. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

10. The petitioner was granted interim protection, and during the interregnum, there is no allegation that she had intimidated the witnesses, hampered the investigation, or, despite being called to join the investigation, did not appear before the investigator. Given the above, there would be no justification to discontinue the interim protection, which is made absolute subject to the petitioner complying with the terms of the bail order and the following additional conditions.

11. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the

petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

13. **Petition allowed** in terms mentioned above. Interim order dated 10.04.2024 is made absolute. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

23.01.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.