

CRM-M-59549-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59549-2024
Reserved on: 13.01.2025
Pronounced on: 30.01.2025

Rashi Aggarwal ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.P. Arora, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

Mr. Kulmanbir S. Nagra, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
785	08.11.2023	City Palwal, District Palwal	120-B, 406, 420, 467, 468, 471 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. As per paragraph 13 of the reply, the accused has no criminal history.
3. It shall be appropriate to refer to relevant portion of the bail petition, which reads as under:-

“4. That the real dispute is between the complainant and the husband of the petitioner, who is the Managing Director of the firm, regarding the payment of rent. The allegations levelled against the petitioner have been concocted in an effort to pressurize the husband of the petitioner to make payment of rent, which is not due.

x x x x

6. That the above said circumstances, the petitioner herein being the wife of the Managing Director, and having been named as an accused, seeks indulgence of this Hon'ble High Court for grant of anticipatory bail inter

alia as the following grounds.

i. That even a bare perusal of the FIR makes it clear that no role, whatsoever, has been assigned to the petitioner herein in the alleged offence. It is submitted that the entire dispute has arisen out of a lease deed entered into by the company namely Rajveer Harsh Fashion Mart Retails Pvt. Ltd. through its director namely Sh. Ankush Gupta (herein after referred as "the company") wherein the petitioner was a director. It is, however, submitted that the petitioner herein was neither the signatory of the above stated lease deed entered into by the company and the complainant, nor was she aware of the execution of any lease deed. Copy of lease deed has been annexed herewith as ANNEXURE-P-2. The above stated lease deed was signed by the husband of the petitioner herein, who is also a director of the company and the complainant. As such, merely because the petitioner was the director of the company, she cannot be held liable for every transaction entered into between the company and third parties, unless she has special knowledge of the transaction and was active participant of the deed/transaction.

ii. That the above stated FIR has been lodged against the petitioner solely because the petitioner was the director of the company and the wife of the co-accused. Moreover, she has already resigned from the post of director on 09/09/2023 i.e. much prior to the registration of FIR. Copy of resolution passed by board of directors of the company w.r.t. resignation of the petitioner has been annexed herewith as ANNEXURE-P-3. It is submitted that the present FIR has been lodged against the petitioner by the prosecution in connivance with the complainant with the sole intention to wreak vengeance against the accused namely Ankush Gupta (husband of the petitioner).

iii. That even otherwise, the entire dispute is civil in nature and has arisen out of alleged breach of the terms of lease deed. It is submitted that the prosecution, in connivance with the complainant, has given a civil dispute, which ought to have been resolved through the forum of Civil Court, a criminal color by lifting from the penal code certain words and phrases and implanting them in a criminal complaint. Moreover, a civil suit is also not maintainable in the present case as the lease deed very specifically mentions that in case of any dispute, the parties will try to sort the dispute through arbitration.

iv. That the petitioner was never privy to the lease deed entered into between the complainant and the company. The petitioner was merely a

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director for name sake and has never been involved in any projects undertaken by the company. In fact, she was not even aware of the fact that a lease deed was, in fact, executed between the company and the complainant and got to know of the same only when FIR was registered against her husband and her. It is reiterated that her husband alone was / is responsible for the day to day affairs of the company.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

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

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“7. That during the course of investigation, the manager of accused Ankush Gupta had produced vouchers of receiving of rent amount from the complainant and the same were taken on record. But, the complainant has denied having signed on the same. Therefore, specimen signatures of the complainant were obtained through the Learned Area Magistrate, Palwal on 7.2.2024 for comparing with his alleged/disputed signatures on above said vouchers.

8. That record was obtained from the department of GST, in which a copy of consent letter "to whomsoever it may concern" regarding change of firm on the premise of the complainant was found available, however, the complainant has refused to having signed the said document.

9. That the co-accused Ankush Gupta was joined in the investigation on 29.4.2024 in compliance of the order dated 8.4.2024 passed in CRM-M-16925 of 2024 by this Hon'ble Court. During investigation, he did not cooperate and he deliberately did not provide the original of the consent letter "to whomsoever it may concern" and he also did not properly disclose about the sequence of events involved in the crime. Since, the complainant has denied having signed the receipts and consent letter, therefore, specimen signatures of the accused Arikush Gupta were obtained through the Learned Court of Area Magistrate, Palwal on 29.4.2024 for comparison. The specimen signatures of the complainant and the accused Ankush Gupta would be sent to FSL for comparison with the original consent letter, if recovered, from the accused.

10. That the present petitioner was also joined in the investigation on 12.6.2024 after she was granted concession of interim anticipatory bail by

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the Learned Additional Sessions Judge, Palwal. Her specimen handwriting was obtained through the Learned Area Magistrate, Palwal. However, she did not cooperate in the investigation as she did not produce the original of the consent letter and she also did not disclose the correct sequence of the events involved in the crime. Therefore, her bail application was finally dismissed by the Learned ASJ, Palwal.

11. That the present petitioner still evades her arrest and she continues hiding herself at unknown locations. Sincere efforts are being made to trace her out to arrest.

12. That it is submitted that the present petitioner is an active Director with her husband/co-accused Ankush Gupta in M/s SK Gupta and Sons Retail Pvt Ltd, 138 Grand Foreshore Road, Howrah, West Bengal and M/s Rajveer Harsh Fashion Mart Retails Private Limited and she is well familiar with their affairs. She has deliberately not provided the original of the consent letter and the investigation is at halt for want of the same. Hence, her custodial interrogation is necessary to recover the original of the consent letter in order to proceed in the investigation. Therefore, she may not be granted concession of anticipatory bail at this stage.”

7. The stand taken by the petitioner is not totally contradicted or disputed by the State. Thus, the petitioner has prima facie proved her defense in preponderance of probability which is required for the purpose of bail. It is clarified that this observation is made by this Court only for the purpose of deciding the bail and would not be resorted to at the time of trial onwards.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. 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 it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.

10. The petitioner's stand and the investigation indicate that the petitioner is not the main accused, so the petitioner's bail shall not be treated as a precedent for granting bail to the other co-accused with a higher role.

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11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. 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.

14. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

16. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation**

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of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.01.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.