

Seema Sharma vs State Nct Of Delhi on 1 September, 2022

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IN THE HIGH COURT OF DELHI AT NEW DELHI

BAIL APPLN. 1782/2022

SEEMA SHARMA

..... Petiti

Through: Mr. Amit Sharma, Adv.

versus

STATE NCT OF DELHI

..... Respon

Through: Ms. Richa Dhawan, APP fo
with IO Ins. Ashwant, DI
Complainant in person.

CORAM:

HON'BLE MS. JUSTICE POONAM A. BAMBA

ORDER

% 01.09.2022 1.0. This is a petition u/s 438 Cr.P.C filed by petitioner Seema Sharma seeking anticipatory bail in case FIR no. 90/2019, PS Vivek Vihar under Sections 406/420/34 Indian Penal Code, 1860.

2.0. The FIR in question was registered on 15.03.2019 on the complaint of Smt. Meenakshi Gupta, Associate Professor in Delhi University. It is alleged that the complainant had cordial relations with the petitioner whose saree shop she used to visit. The complainant was lured to invest in chit fund scheme by the name "Mehak Lucky Scheme" run by the petitioner.

2.1. It is further alleged that the petitioner had asked for some friendly loan from the complainant for expanding her chit fund and saree business and offered to pay lucrative interest on the money lent. Although, the complainant was not very keen, due to her cordial relations with the petitioner and her husband, she got persuaded and lent to the petitioner, Rs. 2,00,000/- on 27.11.2010, Rs. 1,00,000/- on 16.02.2011, Rs. 1,00,000/- on 26.02.2011 and further Rs. 8,00,000/- on 19.06.2014, as friendly loans.

2.2. It is further alleged that the petitioner launched two more chit fund schemes of Rs. 15,00,000/- and Rs. 30,00,000/- and further lured the complainant to invest half the amount of both the schemes. The complainant invested half the amount in both the schemes i.e Rs. 7,50,000 and Rs. 15,00,000, respectively. Rs. 10,00,000/- out of Rs. 15,00,000/- of the successful chit fund of Rs. 30,00,000/- was paid to her but the petitioner defaulted on balance of Rs. 5,00,000/-. She also did not pay Rs. 7,50,000/- . Thus, the petitioner owed her a total sum of Rs. 24,85,000/-.

2.3. It is also alleged that with a view to settle the outstanding liability, the petitioner issued four cheques to the complainant which included two cheques of Rs. 4,00,000/- each dated 22.10.2018 drawn on Punjab National bank and two more cheques of Rs. 2,00,000/- and Rs. 1,00,000/- both dated 23.10.2018 also drawn on Punjab National Bank account of accused. All the four cheques were

dishonoured on presentation on 30.10.2018, with respect to which, the complainant has already filed complaints under Section 138 NI Act.

3.0 Learned counsel for the petitioner submits that the complainant has lodged a false complaint in order to pressurize and extort money from the petitioner. The allegations levelled in the FIR are purely of civil nature and had been given a criminal colour. The petitioner has clean antecedents and belongs to a reputed family and therefore, there is no possibility of the petitioner evading process of law.

3.1 It is further submitted that true facts are that in January 2017, the petitioner had taken a loan of Rs. 10 lakhs in cash for expansion of her business from the complainant for some time subject to payment of interest @ 1% i.e., Rs. 10,000/- per month in cash. In lieu of the same, the petitioner had issued four blank signed cheques bearing no. 985502, 985509, 055334 and 055335 all drawn on PNB, Vivek Vihar, Delhi as security. The petitioner had paid in the month of April 2017, an amount of Rs. 5 lakh to the complaint by way of two cheques in the name of the complainant's daughter as requested by the complainant bearing no. 130360 for Rs. 2,40,000/- and bearing no. 130364 for Rs. 2,60,000/- both drawn on PNB, Vivek Vihar, Phase II, New Delhi. Further, an amount of Rs. 3 lakhs was paid in parts, between May 2017 to July 2017, to the petitioner besides regular payment of monthly interest @1% in cash. However, no receipts were obtained for such payments. But, the complainant also continued to hold four cheques given as security and did not return the same.

3.2 It is further submitted that as the petitioner suffered huge losses in business and went into financial crisis, she could not return the balance Rs. 2 lakhs and pay 1% interest. She sought time but as the complainant got annoyed, she lodged false complaint under Section 138 NI Act to pressurize and to extort money from the petitioner.

3.3 Learned counsel for the petitioner submits that the petitioner had filed anticipatory bail before the Learned ASJ, which was dismissed vide order dated 25.05.2022 3.4 Learned counsel for the petitioner also submits that the petitioner is ready to join investigation, as and when called.

3.5 It is also submitted that the petitioner shall not tamper with evidence or hamper the investigation, if admitted to bail and shall comply with all terms and conditions as may be imposed by this court.

4.0 Per contra, Learned Prosecutor strongly opposes this application. Learned Prosecutor submits that there are serious allegations against the petitioner and her husband of alluring not only the complainant herein but many other such gullible and illiterate persons. She also submits that on the complaint of another lady namely Sheetal of being cheated in a similar manner, an FIR No. 194/18 under Sections 420/406/34 IPC, PS Vivek Vihar has been registered.

4.1 Learned Prosecutor further submits that the petitioner has been evading the process of law and has not been joining investigation. She is not available at the given address.

4.2 Learned Prosecutor also submits that the complainant has provided written receipts of transactions showing cash received by the petitioner Seema Sharma from the complainant but nothing could be verified as the petitioner has not been joining investigation.

4.3 Learned Prosecutor further submits that for the above purposes, custodial interrogation of the petitioner is urgently needed to ascertain the facts but she has been deliberately evading process of law and has not been cooperating. She also submits that despite efforts, the petitioner could not be traced. Subsequently, fresh NBW s against her were issued on 06.07.2022 returnable for 06.08.2022.

4.4 It is also submitted that the petitioner has not been appearing even in the proceedings under Section 138 NI Act pending before the court of Ld. Magistrate, KKD Courts, where also NBWs issued against her, remained unexecuted. Thereafter, on 22.07.2020, process under Section 82 Cr.P.C was issued against her. Only two years later i.e., on 02.05.2022, an application for cancellation of NBWs and process u/s 82 Cr.P.C came to be filed by the petitioner. Even in other FIR no. 194/2018, under Sections 420/406/34 Indian Penal Code, 1860, PS Vivek Vihar registered on the complaint of one Sheetal, the petitioner has never joined investigation despite issuance of the number of notices and conducting of raids by the Investigation Officer (IO).

5.0 I have duly considered the submissions made from both the sides.

5.1 There are serious allegations against the petitioner of criminal breach of trust and cheating many gullible persons although, only two persons have come forward to file complaint; on which, the present FIR No. 90/2020 and another FIR 194/2018 have been registered. The petitioner has not been cooperating with investigation and has been avoiding the process of law. She is also stated to be not appearing in the complaint filed by the complainant herein under Section 138 NI Act. Resultantly, NBWs and thereafter process under Section 82 has been initiated against her.

5.2 Learned Prosecutor has submitted that certain documents produced by the complainant need to be put to the petitioner, for which her custodial interrogation is required.

6.0 Considering the above facts and circumstances in entirety, I am of the considered opinion that the petitioner does not deserve the benefit of Section 438 Cr.P.C.

7.0 The bail application is accordingly dismissed.

POONAM A. BAMBA, J SEPTEMBER 1, 2022/g.joshi Click here to check corrigendum, if any