

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Date of decision: 08.12.2022

(i)

CRM-M-51715-2022

Pooja Sharma

.... Petitioner

Versus

State of Punjab

.... Respondent

(ii)

CRM-M-49781-2022

Deepti Sharma @ Makhni

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Sachin Ohri, Advocate
for the petitioners.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioners have filed the present petitions under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.131 dated 24.09.2022 registered under Sections 417, 420, 406, 120-B of the Indian Penal Code, 1860 and Sections 66(C), 66(D) of the Information Technology Act, 2000 at Police Station Sujampur, District Pathankot.

The above-said FIR was registered on the complaint made by complainant-Parkasho Devi alleging that her husband was serving in Army and he died in the year 2003. She made Harnam Dass as her

religious brother. On the death of her husband, she provided all documents to Harnam Dass for the purpose of providing family pension. The family pension of her husband was fixed in the year 2014. But Harnam Dass did not give her any information regarding family pension and used to withdraw the amount of her family pension through ATM from her bank account without disclosing her about the same and every year in the month of November, he took her to State Bank of India, Branch Sujanpur and by fraudulently obtained her signatures on the forms and renewed her family pension. On 29.08.2022 when she want to make her PAN Card, then she came to know that she has already have a PAN Card and her family pension is fixed.

Learned counsel for the petitioners has argued that the petitioners have no involvement in the present case and they have been falsely implicated by the complainant on the asking of her son. Petitioner-Pooja Sharma is a daughter and petitioner-Deepti Sharma @ Makhni is a grand-daughter of Harnam Dass. The petitioners are neighbour of the complainant and many a times the complainant used to ask the family members of Harnam Dass to withdraw the amount from her ATM Card. Even the complainant had filed civil suit for declaration to the effect that she is legally wedded wife of the late Chanan Singh and mandatory injunction directing the department to release the pension. There is no specific allegations against the petitioners with respect of cheating. Nothing has to be recovered from the petitioners and their custodial interrogation are not required in the case. The petitioners are also ready and willing to join investigation.

Per contra, learned State counsel and learned counsel for the complainant opposed the present petitions on the ground that the petitioners hatched a criminal conspiracy with co-accused Harnam Dass and cheated the complainant by withdrawing the amount from her account. The custodial interrogation of the petitioners are required for thorough investigation of the case and for recovery of amount withdrawn by them from the account of the complainant.

I have heard learned counsel for the parties and gone through the paper-book.

As per reply filed by the State in CRM-M-49781-2022, co-accused Harnam Dass with the motive to cheat the complainant, by hatching conspiracy with the family members (including the petitioners), obtained documents from the complainant on the pretext of providing her family pension, opened her bank account bearing No.34999630104 at State Bank of India, Sujampur Branch, Pathankot, got linked Vimla Devi's (wife of Harnam Dass) mobile No.8727095144 with the bank account of complainant, withdrew money of the complainant without intimating her and purchased goods from CSD canteen by using the ATM card of the complainant. In the CCTV footage of the Bank, petitioner-Deepti Sharma @ Makhni is seen withdrawing money on 05.06.2022, 06.06.2022, 03.07.2022 and 04.07.2022, 30.07.2022 and after withdrawing the money, she handed over the same to her mother petitioner-Pooja Sharma.

The allegations against the petitioners are serious in nature. The recovery of hefty amount is yet to be effected. Moreover, the

investigation is still going on, and therefore, their custodial interrogation are necessary for finding out the modus operandi of commission of the offence.

It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. This view of mine finds support from the judgment of Hon’ble Supreme Court in **Madhya Pradesh Vs. Pradeep Sharma**, (2014) 2 SCC 171.

Keeping in view the above facts as well as nature of the offences, the petitioners do not deserve the concession of anticipatory bail. Hence, the present petitions are hereby dismissed.

08.12.2022
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No