

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

CRM-M-22109 of 2016

Date of Decision: August 01, 2016

Naseeb Kaur and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment? Yes/No
2. Whether to be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. Manjit S. Uppal, Advocate
for the petitioner.

Mr. C.S. Brar, DAG, Punjab.

FATEH DEEP SINGH, J.

The petitioners Naseeb Kaur and her son Gurwinder Singh have sought anticipatory bail under Section 438 Cr.P.C. The present case was got registered on the dying declaration of deceased Balwinder Singh dated 10.05.2016. In the statement, the deceased testified that he was married to Jasvir Kaur, out of which the couple had three kids and there used to be matrimonial dispute between the couple and his mother-in-law petitioner-Nasib Kaur was having illicit relations with his co-villager and that 8-10 days prior to this occurrence the deceased and his wife had a fight and being fed-up with the same had consumed insecticide leading to his death on the same very day.

Learned counsel for the petitioners has submitted that from the bare perusal of the dying declaration which forms the FIR neither any abetment is made out much less an instigation at the behest of the present petitioners and has placed reliance on *Kishori Lal vs. State of M.P. 2007(3) RCR Criminal 385; Baldev Singh vs. State of Punjab 2014 (4) Law Heralds 2964; Jagdeep Kaur vs. State of Punjab 2013(4) RCR (Criminal) 1013; Gurjant Singh and others vs. State of Punjab 2013(4) RCR (Criminal) 515; Saroj vs. State of Haryana 2011(2) Law Herald 1419.*

Learned State counsel has opposed the bail application on the ground that the custodial interrogation of the petitioners is essential.

The prima facie allegations against the petitioners, the very element of abetment is a debatable issue and there is no substantial role attributed to any of the petitioners and that nothing is to be recovered from them. More so, the very acceptability of the dying declaration before the Police official is a subject matter of adjudication by the trial Court and that sending the petitioners to the custody will be travesty of justice. Thus, the present petition seeking anticipatory bail is allowed. In the event of arrest of the petitioners, they be admitted to bail to the satisfaction of the arresting officer/Investigating Officer and that they shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

(FATEH DEEP SINGH)
JUDGE

August 01, 2016
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