

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

**Criminal Misc. No.M-16510 of 2017 (O&M)
Date of Decision: May 23, 2017**

Sudesh

.....PETITIONER(s).

VERSUS

State of Haryana

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.S. Rai, Senior Advocate with
Mr. D.S. Brar, Advocate
for the petitioner (s).

Ms. Neelam Kashyap, D.A.G., Haryana.

SURINDER GUPTA, J.

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.1082 dated 18.10.2016 registered for the offences punishable under Sections 148, 149, 302, 307 read with Section 120-B of Indian Penal Code and 25 of Arms Act, 1959, at Police Station City Gurugram.

Learned counsel for the petitioner submits that involvement of petitioner in the present case is motivated as brother of petitioner namely Sandeep was killed by Haryana Police in Mumbai. Petitioner was pursuing that case and on her petition, FIR was registered against five Haryana Police officials. She had also moved an application, before the Metropolitan Magistrate, Espelande for monitoring of investigation and to ensure proper

investigation in the matter, under Section 156 (3) Code of Criminal Procedure, copy of which has been placed as Annexure P-4. Present FIR was registered for murder of Manish. Petitioner is a household lady and she has nothing to do with the gang war in the State of Haryana. The police has involved her in the murder of Manish as she had dared to challenge the cold blooded murder of her brother by Haryana Police and on her petition, a S.I.T. was constituted and FIR was registered against Haryana Police officials.

FIR in this case was registered on the complaint of Karan Singh, wherein he has stated that on 17.10.2016 at about 11.45 PM, his son Manish along with his driver Sukhbir and one Liaquat had come to his liquor vend to collect cash in their Hundai Creta vehicle bearing registration No.HR99 XL Temp HQ 2289. Manish was sitting on the seat adjoining the driver while Liaquat was sitting on the rear seat. When the vehicle stopped near liquor vend, salesman Kamlesh came out with cash. In the meanwhile, 8 to 10 young persons came to the spot and started firing at Manish and the other persons sitting in the vehicle. Manish was taken to Medanta Hospital, Gurugram, where he was declared dead. Sukhbir and Liaquat were admitted in hospital with fire shot injuries. Complainant stated in the FIR that there is old enmity with family of Sandeep Gadoli, Kaushal resident of Naharpur and Roopa of Gurugram. At the time of cremation of Sandeep, his brothers Kuldeep, Braham Prakash @ Master and sister Sudesh (petitioner) have declared that they will not allow the family of Binder to celebrate Diwali and he believed that his son Manish has been murdered by Kuldeep, Braham Prakash and Sudesh (petitioner) residents of Gadoli, Kaushal, his brother

Manish and Amit Dagar.

Kuldeep Singh, brother of petitioner was arrested and police recorded his disclosure statement, wherein he has stated that their brother Sandeep was having enmity with Binder Gujjar, who got killed Sandeep in an encounter. He along with his sister and brother were jointly pursuing the case of murder of Sandeep. They have planned to kill Binder Gujjar but due to police security around him, he could not be killed. After the cremation of Sandeep, Sudesh (petitioner) asked them to take revenge and they collected all the associates of Sandeep and their meeting was held with petitioner, Kuldeep and Braham Parkash. In that meeting, it was decided that if Binder Gujjar could not be killed, his brother Pappu should be killed and all agreed for this. An amount of ₹10 lakh was collected in which Kuldeep and Braham Prakash contributed ₹3 lakh each and Sudesh (petitioner) contributed ₹4 lakh and this amount was given to the associates of Sandeep namely Rishi, Sonu and Ravi. As planned, Pappu (Manish) brother of Binder Gujjar was killed.

Learned State counsel has argued that police has direct evidence of involvement of petitioner in the murder of Manish. The mere fact that she is pursuing the case of killing of her brother by the Haryana Police is no reason to reach in conclusion about her innocence. War of two gangs i.e. one of Sandeep Gadoli and other of Binder Gujjar is going on since long. Both are out to kill the persons belong to the gangs of each other. As planned by petitioner and her brothers, Manish was killed and payment of ₹10 lakh was made by the petitioner, Kuldeep and their brother Braham Prakash to the associates of Sandeep. The matter requires thorough

investigation for which custodial interrogation of the petitioner is required.

Admittedly, it is a case of gang-war between two groups. While Sandeep brother of petitioner was killed in Mumbai in a police encounter for which a case was registered against some of Haryana Police officials, Manish was killed to revenge the death of Sandeep. The petitioner is named in the FIR as one of the suspect and police has also collected some evidence against her. The gravity of the offence requires custodial interrogation of the petitioner. If the petitioner is aggrieved by the death of her brother and is pursuing the legal remedy and wants that the case should be thoroughly investigated, complainant Karan Singh, whose son was murdered, also has the similar wish.

Keeping in view the gravity of the offence and the evidence that has so far been collected by the police, I do not find it to be a fit case to exercise discretionary power to grant pre-arrest bail to the petitioner.

This petition has no merits.

Dismissed.

May 23, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No