

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

**CRM-M-28346 of 2017
Date of Decision :-28.8.2017**

Rajbala

.....Petitioner

Versus

Narender

.....Respondent

CORAM:- HON'BLE MR. JUSTICE H.S. MADAAN

Present: Mr.Tapan Kumar Yadav, Advocate
for the petitioner.

Mr.P.R. Yadav, Advocate
for the respondent.

H.S.MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioner - Rajbala, an accused in Criminal Complaint No.29 of 2013 dated 22.8.2013, under Sections 302/201 IPC pending in the Court of Judicial Magistrate Ist Class, Narnaul.

Briefly stated facts of the case are that Sh.Sher Singh, an Ex - Army personnel had been resident of village Bihali, Tehsil Narnaul, District Mahendergarh. He was married with Smt.Kamla and the couple had three sons, namely, Narender, Surender and Rajender. Rajbala was married with Surender son of deceased Sh.Sher Singh. All the three

sons of Sh. Sher Singh and his wife had been residing separately from him at village Nangloi, Delhi. In July, 2001, Rajbala had shifted from Delhi to village Nangloi. Sh. Sher Singh had two properties at the village out of which Rajbala along with her children was staying in one house. On 8.2.2006, dead body of Sher Singh was found in a well in the village. Sher Singh had executed a Will dated 7.10.2005 in favour of his daughter-in-law Rajbala (petitioner before this Court). Other family members of deceased tried to involve Rajbala in a case relating to death of Sh. Sher Singh alleging that she had murdered her father-in-law - Sh. Sher Singh. An FIR no.92 dated 7.7.2006 for the offences under Sections 302/34 IPC was registered at Police Station Bihali by Smt.Kamla wife of deceased Sh. Sher Singh and mother-in-law of petitioner Rajbala. That FIR was investigated, however, story set up by family members of Sh. Sher Singh deceased was found to be false, as such, cancellation report dated 25.12.2007 was prepared and was filed in the Court. It was accepted by the Court vide order dated 15.9.2010. Subsequently, after a gap of more than three years, a complaint/protest petition was filed in which petitioner has been summoned as an accused for the offences under Sections 302/201 IPC, whereas complaint qua two other accused, namely , Braham Yadav and Raju has been dismissed.

Apprehending her arrest in that case, petitioner - accused had approached the Court of Sessions seeking grant of pre-arrest bail but her such application was dismissed by the Court learned Additional Sessions Judge, Narnaul vide order dated 18.7.2017, as such, she has approached this Court asking for similar relief.

Notice of the petition was given to respondent-complainant and respondent put in appearance through his counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the respondent has vehemently opposed the petition contending that it is the petitioner, who had committed murder of Sh. Sher Singh after getting the Will executed from him; though she could manage the cancellation of the FIR but to bring to justice the complainant who happens to be son of deceased waged a relentless battle for several years and has filed the criminal complaint as per liberty granted to the complainant by this Court. He has contended that keeping in view the gravity of the offence, no case for grant of pre-arrest bail to the petitioner is made out.

In this case admittedly FIR No.92 dated 7.7.2006 for the offences under Sections 302/34 IPC had been registered against present petitioner Rajbala but the same after investigation was cancelled. A cancellation report with respect to the FIR was prepared and it was filed in the Court which is stated to have been accepted. The present complaint is said to have been filed after a gap of more than three years. Thus the main thing to be seen is to ensure presence of petitioner before the Court as an accused so that trial can proceed expeditiously. Her custodial interrogation in that way is certainly not required. No recovery is to be got effected from the petitioner.

My attention has been drawn to the fact that the complainant has been giving somewhat different version of the incident

initially. The root cause of the trouble is said to be the Will executed by the deceased in favour of the petitioner – accused Rajbala. In civil litigation, the Will is said to have been found to be legal and valid, though appeal against judgment passed by the trial Court is stated to be pending.

Under similar circumstances in a case **Bajinder Singh Versus State of Punjab, 2015(3) R.C.R.(Criminal) 950** by a Co-ordinate Bench of this Court dealing with an eventuality when in a murder case petitioner had been summoned as additional accused to face trial, pre arrest bail was granted to such accused observing that additional accused who do not intend to defy law and are ready to face trial, their plea of anticipatory bail can be considered.

Similar view was taken in **Ravi Kumar Versus State of Haryana, 2015(5) RCR(Criminal) 895, Kehar Singh Versus State of Haryana, 2010(4) R.C.R.(Criminal) 672** by Co-ordinate Benches of this Court.

Under the circumstances, the petition calls for acceptance, the same is allowed. It is directed that on appearance of the petitioner in the Court of Judicial Magistrate Ist Class, Narnaul/trial Court, she be released on bail, subject to her furnishing personal bonds and surety bonds to the satisfaction of the Magistrate/Court, who may impose any term and condition found proper and suitable under the circumstances.

28.8.2017
Brij

(H.S. MADAAN)
JUDGE

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