

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

CRM-M-10411-2018
Date of decision:-3.4.2018

Sushila Devi @ Sheela

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr. Vishal Nehra, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

Mr.Vinod S. Bhardwaj, Advocate
for the complainant.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioner – Sushila Devi @ Sheela, an accused in FIR No.332 dated 11.12.2017, under Sections 323, 302, 120-B, 34 IPC and Section 27 of Arms Act, registered at Police Station Sahlawas, District Jhajjar.

Briefly stated, the facts of the case as per prosecution story are that two real sisters, namely, Raj Bala and Kavita were married with

two real brothers, namely, Hari Kishan and Raj Kishan sons of Tara Chand about 25 years back; Hari Kishan, husband of Raj Bala had been serving in Indian Army; a marital dispute had originated between Raj Bala and Hari Kishan and Hari Kishan had filed a divorce petition against Raj Bala, though divorce was not granted; Raj Bala along with her son Sumit, aged about 20 years started residing at her parental place at village Ladawas; Hari Kishan had contracted a second marriage with Sushila Devi @ Sheela (present petitioner) about 10 years back and both of them had been residing together and Sushila Devi @ Sheela had given birth to a son from the loins of Hari Kishan; after retiring from Indian Army, Hari Kishan started running a service station in village Birohar; Sumit brought his mother Raj Bala from village Ladawas to village Birohar and they were residing with family of Raj Kishan; Sushila Devi @ Sheela and Hari Kishan had threatened Raj Bala and Sumit several times and on 10.12.2017 the complainant – Lila Ram, brother of Raj Bala and Kavita had gone to village Birohar to see his sisters; on 11.12.2017 at about 9:00 a.m. Hari Kishan came to the house of Raj Kishan on a motorcycle having a licensed gun and he started abusing Raj Bala; that thereafter he fired 4-5 shots from his pistol at Raj Bala, who received gun shot injuries; Hari Kishan also hit Sumit with handle of the pistol and thereafter sped away on his motorcycle; Raj Bala had succumbed to the injuries and she was taken to General Hospital, Jhajjar. The police was informed accordingly. According to the prosecution case, Hari Kishan had committed murder of Raj Bala in conspiracy with Sushila Devi @ Sheela. Formal FIR was registered

Apprehending her arrest in this case, petitioner/accused

Sushila Devi @ Sheela 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, Jhajjar vide order dated 7.3.2018. As such she has approached this Court asking for similar relief.

Notice of the petitioner was issued to respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record and I find that there is absolutely no merit in the petition.

Learned counsel for the petitioner has contended that the petitioner was though named in the FIR, she was not present at the spot and was in hospital; that she has been roped in simply for the reason that she is second wife of Hari Kishan and no recovery is to be effected from her, therefore, pre-arrest bail be granted to such petitioner.

However, the request is being opposed by learned State counsel stating that the petitioner was part of the conspiracy to commit murder of Raj Bala and her custodial interrogation is necessary to unfold the complete story.

After hearing the rival contentions of learned counsel for the parties, I find that in the FIR, the petitioner is specifically named as a conspirator. A person entering into conspiracy to commit an offence is equally liable with the accused, who actually commits that offence. Merely because of the fact that she was not present at the spot at the time of incident and had not caused any injury to the deceased does not dilute her guilt. A conspiracy is often shrouded in secrecy. The custodial interrogation of the petitioner is essential to find that as to how the

conspiracy was hatched and the events leading to actual execution of murder of Raj Bala by Hari Kishan. In case of **State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268**, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

3.4.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No