

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

**CRM-M-29965-2019
Date of decision: 05.08.2019**

Sunita Devi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- SI Sajjan Singh.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.230 dated 29.05.2019 registered under Sections 148, 149, 302, 323, 342, 34 IPC and 25/54 of the Arms Act at Police Station Tosham, District Bhiwani.

The operative part of the order dated 17.07.2019, vide which the petitioner has been granted interim bail, is reproduced below:

“Counsel for the petitioner has submitted that as per the allegations in the FIR, on the intervening night of 17/18.05.2019, the complainant – Mahesh was returning from his fields and when he reached in front of the house of one Rajesh, he saw that his nephew Parmod (since deceased) was surrounded by 9-10 people and he shouted for help, in order to save him from the clutches of those people. When the complainant reached at the spot, aforesaid Rajesh pointed a revolver on the head of the complainant and both of them were taken in the house of the complainant and later on, Parmod was taken to the house of the petitioner from the roof top and he heard his cries Maar Dala. After some time, the co-accused Shamsher, who is husband of the present petitioner told Rajesh in loud voice that they have killed Parmod and if the complainant i.e. Mahesh does not run away from the residence of Rajesh, he should also be killed. On hearing the same, the complainant was freed and he went outside and informed his brother Gunpal son of Azad Singh and thereafter, Parmod was shifted in an ambulance to PGIMS, Rohtak and from there, he was taken to AIIMS Trauma Centre, where he remained

admitted from 18.05.2019 to 28.05.2019 and thereafter, he died.

Counsel for the petitioner has submitted that, in fact, with regard to the said incident, on the very next day i.e. 18.05.2019, the husband of the petitioner namely Shamsher registered an FIR No.219 dated 18.05.2019 under Sections 148, 149, 323, 427, 458, 506 IPC at Police Station Tosham, District Bhiwani against the accused persons including Parmod, with the allegations that Shamsher, his wife – Sunita i.e. the present petitioner and his son Naveen were sleeping in their house and at about 12.10 A.M., Parmod along with one boy namely Mintu @ Banta and Rahul along with 3-4 other boys entered the house of the petitioner holding weapons like lathis and rods and started giving injuries to all three of them. When they raised voice, the assailants ran away and later on, they found that Parmod was lying on the floor and blood was oozing out from his hands. In the FIR, it is further stated that the entire incident was recorded in the CCTV camera installed at his house and the motive was that already 03 cases were pending against Parmod and Mintu and due to that grudge, they have criminally trespassed into the house of the complainant and caused injuries and later on, by arranging an ambulance, Parmod was shifted to the hospital. Counsel for the petitioner has relied upon another FIR No.186 dated 26.04.2018 wherein the husband of the petitioner got registered an FIR under Sections 323, 34, 427, 452, 506 IPC on account of giving beatings to him.

It is further argued that, in fact, the said Parmod was having a bad eye on the daughter of the petitioner and on that account, when he was restrained from doing such illegal act, he gave beatings to the husband of the petitioner and even the family friends namely Amit and Raghubir, who were helping the husband of petitioner, were also given beatings in similar manner and the two other FIRs were also registered against Parmod on an earlier occasion.

Counsel for the petitioner has further submitted that despite the fact that the marriage of the daughter of the petitioner was performed on 19.11.2018, the deceased Parmod even followed her in her in-laws house and created nuisance for the family members and nourished a grudge against the family of the petitioner. Counsel for the petitioner has, thus, submitted that the deceased along with his accomplices entered the house of the petitioner in the night at around 12:00 AM and caused injuries to them and in self-defence, the petitioner, her husband and her son also caused injuries and in that process, Parmod sustained injuries and therefore, it will be a debatable issue to be decided during the course of trial whether the right of private defence exercised by the petitioner and her family members was to save their lives, as the place of occurrence was inside the house of the petitioner, and the assailants and the deceased had entered the house of the petitioner with intention to cause injuries to them.

Counsel for the petitioner has further argued that though the version from the side of the petitioner was reported to the police on the very next date i.e. on 18.05.2019, when the FIR was registered, however, the petitioner, her husband and her son

also remain admitted in the hospital for taking medical treatment, however, from the side of the complainant, no such incident was reported to the police till 28.05.2019, when the deceased died and therefore, the version given by the complainant after 12 days that at the first instance he was taken at gun point by Rajesh in his house, has been disbelieved by the police as per the investigation conducted by the Deputy Superintendent of Police.

Counsel for the petitioner has lastly argued that while issuing notice, the Additional Sessions Judge has granted the concession of interim bail to the petitioner vide order dated 28.06.2019, noticing the aforesaid facts and also going through the CCTV footage.

Notice of motion for 05.08.2019.”

The Investigating Officer, who is present in Court, submits that in pursuance to the order dated 17.07.2019, the petitioner has joined the investigation and is no more required for any further investigation.

In view of the above, the petition is allowed and the interim bail granted to the petitioner, vide order dated 17.07.2019, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

05.08.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No