

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

101

CRM-M-944-2021.

Date of Decision: 11.01.2021.

Kulwinder Kaur

....Petitioner.

Versus

State of Punjab

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Chetan Bansal, Advocate for petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This 2nd petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to petitioner in case FIR No.171 dated 26.12.2019 under Sections 120-B, 406, 420, 465, 468 and 471 IPC, registered at Police Station Rahon, District Shaheed Bhagat Singh Nagar.

Notice of motion.

At the asking of Court, Mr. Mehardeep Singh, Addl. AG, Punjab, accepts notice on behalf of respondent-State. Complete copy of paper book has been supplied to him.

Learned counsel for the petitioner *inter alia* contends that the allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that application for issuance of death certificate of Happy was initiated by his wife Rajwant Kaur, whereas petitioner had no nexus whatsoever with the preparation of said

certificate. He further urges that previously petitioner had filed CRM-M-1169 of 2020 seeking pre-arrest bail, however, the same was dismissed by this Court, vide order dated 14.01.2020. He further urges that after the passing of above said order, there is change in scenario in the manner that during the proceedings of case titled 'State vs. Happy', FIR No.131 dated 07.10.2015 under Section 22 of NDPS Act, Police Station Shambhu, accused-Happy (son of petitioner) has already made statement on 22.10.2020 to the effect that his family members did not know anything about his fake death certificate and, in fact, he had got prepared the above said death certificate. He further urges that though petitioner has no nexus whatsoever with the alleged offence, she is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to her.

On the other hand, learned State counsel while opposing the cause of petitioner has vehemently argued that Happy, son of petitioner, who was facing trial in case titled 'State vs. Happy', FIR No.131 dated 07.10.2015 under Section 22 of NDPS Act, Police Station Shambhu, it was wrongly reported to the Court that said Happy had expired due to heart attack. He further urges that in view of above information, death report of Happy was called at the instance of Court, wherein a fake death certificate of Happy was furnished by his parents (present petitioner and her husband Harmesh Lal) and his wife Rajwant Kaur and while acting upon said death report, Court had ordered for abatement of criminal proceedings against said Happy. He further urges that lateron in view of anonymous complaint received by Police Authorities, factum of Happy being alive came to

limelight. He further urges that though Happy has made statement in the Court incurring responsibility of preparation of fake death certificate and presentation thereof in the Court but that circumstance does not absolve the petitioner of her involvement in the commission of offence question as she alongwith co-accused namely Hamesh Lal and Rajwant Kaur was instrumental in preparation of fake death certificate of her son Happy and presentation thereof in the Court so that Happy may be get rid of criminal proceedings initiated against him under the provisions of NDPS Act. He further urges that in view of nature of offence committed by petitioner, her custodial interrogation is required to reveal the truth and as such petitioner is not entitled for the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner alongwith her husband-Harmesh Lal and daughter-in-law (Rajwant Kaur), got manipulated the death certificate of their son/husband Happy so as to get rid Happy of criminal proceedings initiated against him under the provisions of NDPS Act. As pointed out by learned State counsel, petitioner and her husband Harmesh Lal being parents of Happy had approached Balwant Singh, Ex-Sarpanch of Village Sakohpur, for getting the documents attested regarding death of their son Happy stating that said Happy had died due to heart attack and on the basis of said documents, application was moved in the office of Local Registrar, Births and Deaths, SBS Nagar, stating that Happy had expired on 01.07.2018 due to heart attack and then after getting

the form attested by Gurmel Ram, M.C. Rahon, death certificate dated 24.07.2018 pertaining to Happy son of Harmesh Lal was got issued. Moreso, as urged by learned State counsel allegations against the petitioner are quite serious and tantamount to circumvent the justice delivery system. It is pertinent to mention here that earlier petition (CRM-M-1169-2020) moved by the petitioner has already been dismissed by this Court, vide order dated 14.01.2020 and in view of statement of Happy, as detailed above, there is no change in scenario after dismissal of earlier petition. Pre-arrest bail to an accused should be granted in exceptional circumstances as a person couched in comparative safety of the pre-arrest bail would certainly not disclose all the facts within his/her knowledge. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for her entitlement of pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

11.01.2021

jitender

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No