

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

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**CRM-M-13819-2021
Date of decision: 25.03.2021**

Sapna

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sidhant Vermani, Advocate
for the petitioner.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (second) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.238 dated 05.10.2020 registered under Section 306 of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station Majitha, Amritsar (Rural).

The above-said FIR was registered on statement of Harwant Singh. In his statement Harwant Singh alleged that he has two sons Varinder Singh and Jatinder Singh who are married to Manpreet Kaur and Sapna respectively. His son Jatinder Singh was residing separate along with his family. His daughter-in-law Sapna used to quarrel with him and his wife Amarjit Kaur due to which his wife was mentally upset. On 05.10.2020 when he and his son Varinder Singh went for work his wife Amarjit Kaur and daughters-in-law Manpreet Kaur and Sapna were at home. At about 2 p.m. he received phone call from his daughter-in-law Manpreet Kaur that Sapna was fighting with

her mother-in-law and insulting and humiliating her due to which his wife Amarjit Kaur consumed some poisonous substance. Amarjit Kaur was taken to Civil Hospital, Majitha by his son Varinder Singh and daughter-in-law Manpreet Kaur where she was declared dead.

Apprehending her arrest, the petitioner has filed present second petition for grant of anticipatory bail.

Her first petition for grant of anticipatory bail was dismissed as withdrawn by this Court vide order dated 24.11.2020.

Notice of motion.

Pursuant to supply of advance copy, Mr. Rana Harjasdeep Singh, DAG, Punjab has appeared and accepted notice on behalf of the respondent-State.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. The petitioner is innocent and has not committed any offence. Admittedly, the petitioner is, along with her husband Jatinder Singh, living separate from her mother-in-law Amarjit Kaur and other family members. Even if the FIR is taken on its face value, no offence under Section 306 of the IPC is made out against the petitioner. The allegations in the FIR are vague and baseless and at the best indicate to a normal wear and tear quarrels which happen in every household. Jatinder Singh husband of the petitioner had also stated that there is no such abetment by the petitioner at any point of time which could compel her mother-in-law to commit suicide. Entire case of the prosecution is based on statement of

Manpreet Kaur who was admittedly present at the time of occurrence and has shifted the blame to the petitioner. The petitioner is ready to join the investigation and no recovery is to be made from her and her custodial interrogation is not necessary in the case. Therefore, the petitioner may be granted anticipatory bail.

On the other hand, learned State Counsel has submitted that there are allegations regarding frequent quarrelling with and insulting and humiliating of the deceased by the petitioner. On the alleged date of occurrence also the petitioner quarrelled with the deceased and insulted and humiliated her due to which she consumed some poisonous substance. The question of abetment of the deceased by the petitioner to commit suicide has to be decided on the basis of evidence and cannot be pre-judged at this stage. First petition filed by the petitioner for grant of anticipatory bail was dismissed as withdrawn by this Court vide order dated 24.11.2020 and there is no change of circumstances. Custodial interrogation of the petitioner is necessary for thorough investigation of the case. The petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

In ***Jai Prakash Singh Vs. State of Bihar and another : (2012) 4 SCC 379***, Hon'ble Supreme Court held that anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. (See also ***D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434***, ***State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213*** and ***Union of India v. Padam Narain Aggarwal (2008) 13 SCC 305***).

In ***P. Chidambaram Vs. Directorate of Enforcement (SC)***

: ***2019(4) R.C.R.(Criminal) 875*** Hon'ble Supreme Court observed as under :-

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. Power under Section 438 Cr.P.C., 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

In ***State Rep. by The CBI Vs. Anil Sharma : (1997) 7 SCC***

187, the Supreme Court held as under:-

"4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders."

In view of the observations made in the above referred

judicial precedents, the facts and circumstances of the case, prima facie evidence showing involvement of the petitioner in the crime, the specific overt acts of frequent quarrelling with and insulting and humiliating of the deceased by the petitioner and the fact that custodial interrogation of the petitioner is necessary for thorough investigation of the case regarding material aspects, I am of the considered view that the petitioner does not deserve grant of anticipatory bail.

In view of the above discussion, the present petition for grant of anticipatory bail to the petitioner is hereby dismissed.

25.03.2021

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(ARUN KUMAR TYAGI)
JUDGE

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