

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

1. **CRM-M No. 22197 of 2020(O&M)**
Date of Decision:January 28, 2021.

Kamlesh Adya PETITIONER

Versus

State of Punjab RESPONDENT

2. **CRM-M No. 23495 of 2020(O&M)**

Kamlesh Adya PETITIONER

Versus

State of Punjab and another RESPONDENT

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Akshay Chadha, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. A.K. Kalsy, Advocate
for the complainant.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing
due to outbreak of the pandemic, COVID-19.

This order shall decide CRM-M No.22197 of 2020 (Kamlesh Adya
v. State of Punjab) as well as CRM-M No.23495 of 2020 (Kamlesh Adya v.
State of Punjab and another).

CRM-M No.22197 of 2020 has been filed by the petitioner for
setting aside order dated 23.04.2018 (Annexure P5) passed by the learned Judicial

Magistrate Ist Class, Ludhiana whereby she has been declared a proclaimed person in FIR No.219 dated 02.10.2017 under Sections 304B/120B IPC (Section 302 IPC added later), registered at Police Station Division No.4, Ludhiana. CRM-M No.23495 of 2020 has been filed by the petitioner seeking anticipatory bail in said FIR.

As per allegations in the FIR registered on the statement of father of the deceased, it is averred that complainant's daughter, who was working as a Lecturer at Master Tara Singh College, SabziMandi, Ludhiana, was married with petitioner's son on 28.07.2017 with great pomp and show. Huge amount was spent on the marriage, but in-laws of the complainant's daughter were not happy with dowry. It is stated that they were raising a demand of car and a sum of Rs.78,000/-. Furthermore, the complainant's daughter was teased and being mentally harassed. There are allegations of complainant's daughter subjected to cruelty and forced to work like a domestic help by the present petitioner. It is further stated that on 30.09.2017, complainant's daughter called the complainant telephonically and complained regarding harassment and abuse at the hands of her in-laws as she failed to fulfill their demands. Complainant assured to visit her on the next day. Complainant's son-in-law contacted the complainant on 01.10.2017 and informed that some incident had taken place and he was taking the complainant's daughter to DMC Hospital, Ludhiana. Complainant's daughter, it is further stated, revealed to the complainant that she had been administered poison by her in-laws' family in a surreptitious manner. She ultimately passed away on 02.10.2017.

Petitioner filed CRM-M No.50037 of 2017 seeking concession of anticipatory bail in this case. Said petition was dismissed as withdrawn on

08.03.2018. Bail application (CRM-M No.48491 of 2017) filed by co-accused i.e., petitioner's son was also dismissed by this Court on 17.08.2018 vide a detailed order. However, said order was set aside by the Hon'ble Supreme Court vide order dated 22.10.2019 (Annexure P4 with CRM-M No.22197 of 2020). In the meantime, an application was moved before the learned Judicial Magistrate Ist Class, Ludhiana by the SHO of the concerned police station for issuance of warrants of arrest against the present petitioner and her son. It was directed by the learned JMIC, Ludhiana vide order dated 14.12.2017 (Annexure P7 with CRM-M No.22197 of 2020) that warrants of arrest be issued against accused DakshAdya.

Learned counsel for the petitioner submits that, in fact, no specific order for issuance of warrants of arrest was ever passed against the present petitioner. Moreover, the impugned order dated 23.04.2018 (Annexure P5 with CRM-M No.22197 of 2020) was passed, declaring the petitioner to be a proclaimed person without following the procedure as provided under the law. Learned counsel for the petitioner further submits that pursuant to interim order dated 03.12.2020 passed in CRM-M No.22197 of 2020, petitioner has appeared before the learned trial court on 07.12.2020 and has been admitted to interim bail. Thereafter, the petitioner has joined investigation. Challan/final report under Section 173 Cr.P.C. against the present petitioner has since been presented on 17.01.2021 and the matter stands committed to the court of Sessions on 19.01.2021. The petitioner was very much present on both the occasions. Petitioner, it is submitted, undertakes to face trial and remain present on each and every date as may be fixed by the learned trial court and not misuse the concession of bail, if afforded to the petitioner.

Learned counsel for the State affirms and verifies that the petitioner appeared before the learned trial court on 07.12.2020, joined investigation and Challan/final report under Section 173 Cr.P.C. against her has since been presented. Learned counsel for the State further verifies that the petitioner is not involved in any other criminal case.

Learned counsel for the complainant has opposed these petitions but is unable to deny that co-accused Daksh Adya has been afforded the concession of anticipatory bail by the Hon'ble Supreme Court. Case of the petitioner, insofar as the allegations in the FIR are concerned, cannot be distinguished from said co-accused. It is not denied that as of now, final report under Section 173 Cr.P.C. stands presented.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, both the petitions are allowed. Order dated 23.04.2018 passed by the learned Judicial Magistrate Ist Class, Ludhiana is set aside. Interim bail afforded to the petitioner pursuant to order dated 03.12.2020 in CRM No.M-23495 of 2020 is made absolute subject to her furnishing fresh bail bonds and surety to the satisfaction of the learned trial court.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petitions.

January 28 , 2021.
'om'

(LISA GILL)
JUDGE

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