

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 41422 of 2020 (O&M)

Date of decision : 24.2.2021

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Usha Devi

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Karan Garg, Assistant Advocate General,
Haryana.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Usha Devi, aged 62 years, r/o H. No. A-2552, SGM Nagar, Faridabad, an accused in FIR No.344 dated 23.7.2019 for the offences under Sections 323, 452, 506 & 34 IPC and Section 3 of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act'), registered with Police Station SGM Nagar, District Faridabad.

In nutshell, the facts of the case are that complainant Mithlesh Devi, a resident of Sanjay Gandhi Memorial Nagar, Faridabad had submitted a written complaint to the police of Police

Station S.G.M. Nagar, NIT Faridabad against Surender Kumar , his wife Usha Devi (present petitioner), daughter Poonam besides Veena wife of Raju, wherein she contended that she belongs to a scheduled caste, whereas the accused belong to Thakur community; on 20.7.2019 at about 4:00 p.m., such accused forcibly closed the water valve, which was outside her house and tried to damage it and when she and her family members offered resistance, all such persons trespassed in her house, gave her fist and leg blows; Bunty minor son and Ritu daughter of complainant were also given beatings by the assailants; all of them abused the complainant and her family members in the name of their caste; due to intervention of Vedpal Nagar, Rana and Munna Lal, the accused left the house of the complainant. After recording of formal FIR, the investigation in the case started.

Apprehending her arrest in this case, the petitioner/accused had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, her such request was declined by learned Additional Sessions Judge, Faridabad vide order dated 25.11.2020. As such, the petitioner has approached this Court asking for similar relief.

I have heard learned counsel for the parties, besides going through the records.

Since Section 18 of the Act, clearly provides that provisions of pre-arrest bail under Section 439 Cr.P.C. shall not apply in relation to any case involving the arrest of any person on an accusation of

having committed an offence under this Act, this relief cannot be granted to the petitioner.

However, as pointed out by learned counsel for the petitioner, on petition of co-accused – Surender Kumar, having been dismissed by this Court for similar reasons, vide order dated 27.7.2020, such Surender Kumar had approached the Hon'ble Supreme Court , by way of filing Special Leave to Appeal. The Hon'ble Supreme Court, while upholding the order passed by this Court, had extended the protection granted to such petitioner earlier, for a further period of two weeks, observing that it would be open to the petitioner to surrender before the competent court and apply for regular bail and if so filed, the application was ordered to be considered expeditiously. The Special Leave to Appeal was accordingly disposed of. Copy of that order has been placed on record as Annexure P-4.

The present petitioner has already joined the investigation and has been granted interim bail. Therefore, the present petition is disposed of directing the petitioner to surrender in the trial Court within a period of 10 days from today and move an application for regular bail, which be decided expeditiously. It is directed that till decision of such application, the petitioner is not to be arrested in this case.

24.2.2021
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(H.S. Madaan)
Judge

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