

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

101

**CRM-M-41482-2020
Date of decision: 16.02.2021**

Satya Devi

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Beant Singh Seemar, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G., Punjab
for respondent No.1-State.

Mr. K.S. Dadwal, Advocate
for respondent No.2/complainant.

ARUN KUMAR TYAGI, J. (ORAL)

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

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.69 dated 17.10.2020 registered under Sections 326-A and 498-A read with Section 34 of the Indian Penal Code, 1860 at Police Station Pojewal, District SBS Nagar.

The above said FIR was registered on statement of Preeti who alleged that she was married with Hardeep Singh in the year 2014. Her husband came back from Dubai about three months back and started quarreling with her on petty matters. Her husband, mother-in-law Satya Devi (the petitioner), elder brother-in-law Balkar Singh and sister-in-law also used to harass her. On 11.10.2020 at about 08/09:00 P.M. when she was sleeping in the room, her husband, mother-in-law,

elder brother-in-law and sister-in-law threw something on her and set her on fire. On hearing her cries, persons from the neighbourhood came and doused the fire by pouring water on her. She was not taken for treatment. On her insistence, her mother and other family members were informed who came on 12.10.2020. Even thereafter she was not taken to hospital and one doctor from the village was called who injected pain killer. On repeated requests of her parental family members she was taken to Hospital at Noorpur and then to GMCH, Sector 32, Chandigarh. In the Hospital at Noorpur she was pressurized by her in-laws to give false statement to the police that the fire was caught due to leakage of gas cylinder.

Apprehending her arrest, the petitioner has sought grant of anticipatory bail.

The petition has been opposed by respondent No.1-State in terms of reply filed by way of affidavit of Davinder Singh, PPS, Deputy Superintendent of Police, Balachaur Sub Division, District SBS Nagar.

The petition has also been opposed by respondent No.2/complainant in terms of her reply.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent No.2/complainant and gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner is aged about 55 years. Respondent No.2/complainant was married with Hardeep Singh son of the petitioner in the year 2014. Husband of respondent No.2/complainant was working in Dubai and respondent No.2/complainant and the petitioner were living together.

There was no complaint by respondent No.2/complainant against the petitioner and her husband Hardeep Singh, son of the petitioner regarding any maltreatment or dowry demand. Respondent No.2/complainant suffered accidental burns due to leakage of gas when she was trying to warm milk for her son and respondent No.2/complainant made statement in this regard to ASI Husan Lal in the presence of her mother. Subsequently, under the influence of her brother, respondent No.2/complainant made statement after five days of the alleged occurrence implicating her husband, mother-in-law, elder brother-in-law namely Balkar Singh and his wife for sprinkling some liquid and to have set her on fire. In her earlier statement made on 13.10.2020, respondent No.2/complainant had stated that the present petitioner had doused her fire. The second statement has been made by respondent No.2/complainant under the influence of her family members on concocted and false allegations implicating the petitioner. The petitioner is ready to join the investigation 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 and learned Counsel for respondent No.2/complainant have submitted that the petitioner is alleged to have maltreated and to have given beatings to respondent No.2/complainant number of times. On the day of alleged occurrence, the petitioner along with her co-accused is alleged to have sprinkled inflammable liquid on respondent No.2/complainant when she was sleeping and to have set her on fire. Respondent No.2/complainant was not taken to the hospital on the same day. On

the next day after arrival of the family members of respondent No.2/complainant, she was taken to hospital at Noorpur Bedi instead of taking her to hospital at Balachaur. Due to her serious condition, respondent No.2/complainant was referred to GMCH, Sector 32, Chandigarh. Custodial interrogation of the petitioner is necessary for thorough investigation of the case and making recovery of the inflammable material/container used. The petitioner does not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

On perusal of the material on record and consideration of submissions made, I am of the considered view that the petitioner does not deserve grant of anticipatory bail.

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 enrope in the crime and would not misuse his/her 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 the present case admittedly the petitioner and her son Hardeep Singh were present at the time of alleged occurrence. Respondent No.2/complainant suffered serious burns but they did not inform the police or her family members and provide medical aid to respondent No.2/complainant immediately after the occurrence. In view of the facts and circumstances of the case and material on record prima facie showing involvement of the petitioner in commission of the

alleged offences coupled with the fact that custodial interrogation of the petitioner is necessary for thorough investigation of the case, effecting recovery of the left over inflammable material/container used and also collection of other material evidence available in this regard, 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.

16.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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