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

CRM-M-43829-2022

Date of Decision: October 17, 2022

Bala Devi

.....Petitioner

Versus

State of Haryana

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Ranjeet Jaswal, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

This is the second petition filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.0212, dated 22.05.2022, under Sections 304-B, 328, 34, 406 & 498-A IPC, registered at Police Station Hathin, District Palwal, Annexure P-1.

Petitioner earlier approached this Court by way of filing CRM-M-32319-2022, which was got dismissed as withdrawn qua the present petitioner and one other accused after arguing for some time, vide order dated 27.07.2022.

Counsel for the petitioner has contended that the petitioner before this Court is the mother-in-law of deceased Sheetal. He has submitted that marriage of the deceased was performed with son of petitioner on 16.02.2021 whereas she died an unnatural death on 21.05.2022. He has submitted that FIR was lodged by family of the deceased on the basis of false and frivolous allegations that the deceased was being harassed for demand of dowry. He submits that there are no specific allegations pertaining to the harassment and demand of dowry qua the petitioner. He

has submitted that there is no dying declaration recorded of the deceased that the petitioner had any complicity in administering the poison to her. He has submitted that the petitioner and her family members only got admitted the deceased in the hospital after she consumed poison which would show the bona fide of the petitioner. He has submitted that the petitioner has no criminal antecedents and thus false implication of the petitioner is writ large. He has submitted that in view of the above-mentioned facts and circumstances, the petitioner deserves to be granted concession of anticipatory bail.

Heard.

Admittedly, the marriage of the deceased was solemnized on 16.02.2021 with Sudhir, i.e. son of Kumarpal. It has been specifically alleged by the complainant Jagbir, i.e. brother of the deceased, that soon after the marriage her sister was being harassed by her in-laws as they were not satisfied with the dowry given in the marriage. It was alleged that they were harassing his sister unabatedly for the demand of dowry and motor-cycle. As the complainant and his family were unable to meet the unreasonable demands of in-laws of his sister, she was administered poison under the greed of dowry. Evidently, the unnatural death of the deceased has taken place within one and a half year of her marriage. There are specific allegations pertaining to harassment caused to the deceased on account of demand of dowry. The deceased died an unnatural death by consuming poison. Prima facie, Section 113-B of the Indian Evidence Act is also attracted in the facts and circumstances of the case. The investigation is at threshold. Besides this, this is the second petition filed by the petitioner for grant of anticipatory bail. Merely change of the counsel would not be a

ground to file the successive petition for grant of anticipatory bail, as successive petition for grant of anticipatory bail is not maintainable as held by Hon'ble Supreme Court in **G.R.Ananda Babu vs The State of Tamil Nadu and another**, SLP (Crl.) 213 of 2021. For consideration of anticipatory bail, the statutory provisions of Sections 438(1) Cr.P.C. are also very clear which prescribes the factors like gravity of the offence, antecedents of the petitioners, probability of the petitioners fleeing from justice, chances of tampering with the evidence are to be taken into consideration. In **Gurbaksh Singh Sibbia and others vs State of Punjab**, AIR 1980 SC 1632 Hon'ble the Supreme Court of India has laid down that the Courts while dealing with the anticipatory bail has to strike the balance between the personal liberty and the overall interest of the society. However, the overall interest of the society will also prevail upon the personal liberty of the individual.

Hon'ble the Supreme Court in **State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187** has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he 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 task of disinterring offences would not conduct themselves as offenders.”

Weighing the facts and circumstances of the present case on the anvil of statutory parameters and the law settled, this Court finds that the petitioner does not qualify for invoking the extraordinary jurisdiction in her favour. Hence, the present petition being devoid of any merit is, hereby, dismissed.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

October 17, 2022
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(**RAJESH BHARDWAJ**)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |