

CRM-M-48768 of 2022

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

CRM-M-48768 of 2022
Date of decision: 30.11.2022

Gunjan

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Akshay Joshi, Advocate, for the petitioner.
Ms. Gaganpreet Kaur, AAG, Haryana.
Mr. Vikas Lochab, Advocate, for the complainant.

NAMIT KUMAR, J. (ORAL)

This second petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.297 dated 08.09.2022 under Sections 294, 506/34 IPC registered at Police Station City Mahendergarh, District Mahendergarh.

The case of the prosecution is that on 4.8.2022 in an ongoing litigation between Gunjan (present petitioner) and her husband Nilesh under the provisions of Protection of Women from Domestic Violence Act 2005; the husband of accused was being represented by counsel Sh. Chanderdeep Bhargarh. While the matter was being argued in the court of Sh. Manjeetpal JMIC Mohindergarh, petitioner-Gunjan alongwith the person who was with her started misbehaving with Sh. Chanderdeep Bhargarh Advocate. The person who was with accused pointed complainant to come out of the Court.

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Petitioner and other person who was accompanying the petitioner were standing near staircase. The person who was with petitioner-Gunjan warned the complainant by saying that he was speaking too much in the Court room. If he would do so then he knows the treatment. He would kill the complainant. The aforesaid person started speaking foul language against the complainant. When the police officials who were present in the Court came near to them then petitioner and person left the spot by saying that they will teach him lesson outside the Court complex. On the basis of aforesaid information FIR under sections 294,506/34 IPC was registered against the accused. During the investigation it was found that there is no CCTV camera footage of the place where occurrence took place in the Court complex.

On issuance of notice of motion, status report by way of affidavit of Siddhant Jain, IPS, Additional Superintendent of Police, Mahendergarh, District Mahendergarh, has been filed on behalf of the respondent-State.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He submits that no case is made out against the petitioner and the version stated by the complainant is totally false and concocted and all the allegations are attributed to other person whose name has not been mentioned in the FIR. He further submits that the petitioner had neither given any threat to the complainant nor uttered abusive words against him. Petitioner is ready and willing to join the investigation.

Per contra, learned State counsel has vehemently, opposed the

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prayer for grant of anticipatory bail to the petitioner by submitting that complainant being lawyer of husband of the petitioner was subjected to rough treatment by the petitioner merely on the ground that he was representing her husband. If the lawyers are threatened by the litigants in the Court room, the dignity of the Court in the eyes of general public will take a beating.

I have heard learned counsel for the parties and perused the record.

The petitioner had earlier filed pre-arrest bail application before the Additional Sessions Judge, Narnaul, which has been rejected by the said Court vide order dated 26.09.2022 and while rejecting the same, following observations have been recorded in the said order: -

“5. Counsel for the accused has submitted that accused in the case in hand has apologized for any wrong done by her in the court but aforesaid apology has not been accepted by the complainant. On the basis of above argument counsel for the accused/applicant prayed that accused/applicant be granted anticipatory bail.

x x x x x

7. Counsel for the complainant at the time of argument has submitted that it is a known fact that complainant and his brother K.S. Bhargarh are lawyer of Papla Gangster. Complainant never gave threat to accused that if she will not take divorce from her husband then she would be eliminated by Papla gang. The above incident took place firstly in the Court room of Sh. Manjeetpal, Judicial Magistrate Ist Class Mohindergarh and later outside the Court room. The Advocate/complainant who was arguing the matter was officer of the Court. If the lawyers are threatened by the litigants in the Court room then the dignity of the court in the eyes of

general public will take a beating. Any Tom Dick and Harry will walk in the Court and can speak bad about the Courts. The counter offence which the accused is carrying out against the complainant i.e. by lodging false and mischievous complaint against the complainant will create atmosphere of fear in the mind of not only Young lawyers but also among the Senior lawyers. On the basis of above argument counsel for the complainant has prayed that anticipatory bail application of accused/applicant be dismissed.

x x x x x

9. This Court is of the view that Advocate in a Court appearing on behalf of any party would be deemed to be officer of the Court who plays a vital role in the administration of justice. Advocates being officer of the court are supposed to carry out their duty in the court without any fear from the opposite party. In the case in hand the young lawyer being the lawyer of husband of accused was subjected to rough treatment by the accused merely on the ground that he was representing her husband. Such type of behaviour send wrong signal to the general public that lawyers of opposite party can be abused or maltreated by any Tom, Dick and Harry. This Court is of the view that beside Section 506 IPC which is non bailable, the accused is also guilty of committing offence under section 189 IPC. Offence under Section 189 IPC is also non bailable in the State of Haryana. This shows that State also wants that public servant should carry out his duty fearlessly. The same would be held with regard to the lawyer who are representing either party in the court room.”

As per law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh v. Pradeep Sharma (2014) 2 Supreme Court Cases 171***, power exercisable under Section 438 Cr.P.C. is somewhat extraordinary in character and it is to be exercised only in exceptional cases where it appears

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that the person may be falsely implicated or where there are reasonable grounds for holding that a person accused of an offence is not likely to otherwise misuse his/her liberty.

There are specific allegations against the petitioner, which are serious in nature. Curtailing of her freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses.

In view of the peculiar facts and circumstances of the case, I am of the considered view that petitioner cannot prima facie be said to have been falsely enroped in the crime and her custodial interrogation is necessary in the case and that petitioner is likely to abscond and misuse her liberty and, therefore, does not deserve grant of anticipatory bail.

In view of the above, the petition is dismissed.

30.11.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No