

211 (2)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-791-2023****Date of Decision: 01.03.2023**

Kulwant Kaur

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Tajinder Pal Singh Makkar, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail in case FIR No.0159 dated 12.10.2019, under Sections 420 and 120-B of the Indian Penal Code, 1860, registered at Police Station Gidderbaha, District Sri Muktsar Sahib (Annexure P-1).

On 09.01.2023 the following order was passed by this Court :-

“Prayer in the present petition, filed under Section 438 of the Code of Criminal Procedure, 1973, is for grant of anticipatory bail to the petitioner, in case FIR No.0159 dated 12.10.2019, registered under Sections 420 and 120-B of the Indian Penal Code, 1860, at Police Station Gidderbaha, District Sri Muktsar Sahib (Annexure P-1).

Learned counsel for the petitioner, inter alia, submits that petitioner is an old lady of about 80 years of age and has been falsely implicated in the case at the instance of one Sukhmandar Singh son of Jeet Singh @ Ajit Singh, S/o Kakar Singh, who is stated to be one of the descendants of Kheon Singh. It is submitted that purely a civil dispute has been given the colour of criminal nature. It is stated that in the civil suit/plaint (Annexure P-2), the petitioner has been impleaded as respondent No.8 and one of the pleas raised in the civil suit is that the present petitioner is not the widow of Lal Singh S/o

Guranditta singh @ Ghumand Singh S/o Kheon Singh. Learned counsel for the petitioner, while referring to para No.9 of the plaint, submits that averment in suit is that the present petitioner has got the mutation sanctioned No.15548 by misrepresenting the true facts and by showing herself as widow of Lal Singh. In the suit, it is also claimed that the present petitioner-Kulwant Kaur is not the legal heir of Bishan Singh as she is not the widow of Lal Singh as Lal Singh was allegedly married to one Surjit Kaur (defendant No.7 in the suit). Learned counsel submits that said Lal Singh after leaving Surjit Kaur had performed Karewa marriage with the present petitioner and in the year 2007, Lal Singh died leaving the present petitioner to be his legal heir. Learned counsel has further referred to Annexure P-4, which is a photocopy of Aadhar Card, Smart Ration Card, I.D of Election Commission and Savings Bank Account of Kulwant Kaur, wherein, she is depicted as wife of Lal Singh. Learned counsel also submits that the bail application moved by the petitioner under Section 438 of the Code of Criminal Procedure Code, for grant of anticipatory bail has wrongly been dismissed by learned Additional Sessions Judge, Sri Muktsar Sahib, vide its order dated 06.02.2020. It is stated that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency.

Notice of motion.

On the asking of the Court, Mr. Vinay Kumar Gupta, Assistant Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State and opposes the petitioner's prayer for interim anticipatory bail on the ground of seriousness of offence.

Keeping in view the fact that the petitioner is an old lady of more than 80 years of age and a civil suit is already pending between the parties and prima facie, the case is based on documentary evidence; this Court is inclined to grant interim bail to the petitioner.

List on 01.03.2023.

In the meanwhile, in the event of arrest of the petitioner, she shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer. However, she shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

A copy of the complete paper book be supplied to learned State counsel by the learned counsel for the petitioner during course of the day."

Learned counsel for the petitioner submits that pursuant to the

aforesaid order, the petitioner has joined the investigation.

Learned State counsel on instructions from ASI Surinder Singh has not disputed the aforesaid fact of joining of investigation by the petitioner and submits that her custodial interrogation is not required at this stage.

Heard learned counsel for the parties.

Since the petitioner has joined the investigation and her custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 09.01.2023 passed by this Court is made absolute.

However, the petitioner shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

It is made clear that if the petitioner fails to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioner.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.

The petition is accordingly disposed of.

01.03.2023

Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No