

CRM-M-17074 of 2023

2023:PHHC:050363

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

CRM-M-17074 of 2023

Date of decision: 11.04.2023

Nisha @ Nisha Khan @ Nisha Chaudhary

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Ankur Bansal, Advocate, for the petitioner.
 Mr. Adhiraj Singh, AAG, Punjab.
 Mr. Rishu Mahajan, Advocate, for the complainant.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.147 dated 18.11.2022 under Sections 307, 323, 324, 148, 149 IPC (later on added Sections 326 & 120-B IPC) and Sections 25 & 27 of the Arms Act, 1959, registered at Police Station Maqsudan, District Jalandhar.

2. Present FIR has been got registered by complainant-Mandeep Singh son of Onkar with the allegations that he is working as an agriculturist. Complainant alongwith his friend Prithipal Singh son of Surjit Singh was sitting outside the shop on Navyug Fertilizer Store at Raipur Rassulpur. At about 3:15 P.M one Skoda Car bearing No.HR-26-BN-4256 of black colour stopped there. Daljit Singh @ Kala, Piardeep Singh @ Pari and Balwinder Kumar @ Mintu alongwith 2-3 persons alighted from the car. Kala and Pari started abusing the complainant, Kala and Pari brought out pistol from their dub and Pari

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with an intention to commit murder fired upon him and the bullet passed near the right arm, whereas Pari gave fire second time, but it missed from his pistol. Then Kala also fired towards Pirthipal Singh, which passed near to the left shoulder of Pirthipal Singh. Complainant and Pirthipal Singh had a scuffle with the accused persons, then from the hand of Pirthipal Singh magazine fell on the spot and in the meanwhile Mintu and other unknown persons brought swords from the vehicle and they inflicted injuries on Pirthipal Singh. In the meanwhile Pari and Mintu also gave sword blows on the complainant and blood was started oozing. They raised hue and cry. Many people gathered on the spot. On seeing the people, accused persons alongwith their weapons ran away from the spot. Thereafter Prabhjot Singh got them admitted in Kapoor Hospital, where they were under treatment. The motive behind the occurrence is that Daljit Singh and Piardeep Singh indulged in the sale of illicit liquor, whereas Pirthipal Singh and others have stopped them and there was altercation between them. Due to this grudge, they inflicted injuries.

3. Learned counsel for the petitioner contended that petitioner is innocent. She was not named in the FIR and has been nominated as an accused on the basis of disclosure statement of the co-accused. He further submitted that petitioner has been falsely implicated in the present case as she was not present at the spot nor any injury has been attributed to her. He further submitted that petitioner is ready and willing to join the investigation.

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4. Per contra, learned State counsel, who appears on receipt of advance copy of the paperbook, has opposed the prayer for grant of anticipatory bail to the petitioner. He further submitted that petitioner is a habitual offender as she is involved in seven more cases. Therefore, her custodial interrogation is necessary for investigation of the case.

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

6. There are specific allegations against the petitioner. Co-accused have inflicted injuries upon the complainant side in brutal manner and have tried to commit murder of two persons of complainant side with the weapons which she got arranged weapons from Bihar and she is also a conspirator. Moreover, petitioner is a habitual offender as she is involved in seven more cases under the NDPS Act, out of which in four cases she has been convicted.

7. The allegations are serious in nature. Custodial interrogation of the petitioner may provide information leading to discovery of material facts. Curtailing of her freedom is necessary in order to enable the investigation to proceed without hindrance and to protect witnesses.

8. 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 that the person may be falsely implicated or

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

9. In view of the 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 his liberty and does not deserve grant of anticipatory bail.

10. In view of the above, the petition is dismissed.

11.04.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No