

CRM-M-22223 of 2023 (O&M)

2023:PHHC:074547

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

CRM-M-22223 of 2023 (O&M)

Date of decision: 18.05.2023

Mukesh Devi

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. B.S. Mamli, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, DAG, Haryana.

NAMIT KUMAR, J.

CRM-22471 of 2023

1. This application has been filed by the applicant-petitioner for placing on record the copy of petition under Section 125 Cr.P.C. as Annexure A-1.

2. In view of the averments made in the application, same is allowed. Annexure A-1 is taken on record subject to all just exceptions.

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1. This petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No.0181 dated

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07.04.2023 under Section 436 IPC, registered at Police Station Sadar Fatehabad, District Fatehabad.

2. Present FIR has been registered on the complaint of complainant Pooja wife of Yatinder alleging that on 06.04.2023 at about 4:00 p.m., her mother-in-law Mukesh (present petitioner) quarreled with her and her husband, upon which she and her husband went to neighbourhood Dhani. In their absence, her mother-in-law petitioner-Mukesh set residential house on fire. Thereafter, information was sent to police on 'Dial 112' and police reached at the spot. Since it was a family matter, she took time of one day. Her family members enquired the matter from her mother-in-law but her mother-in-law refused to accept her fault. Due to fire, articles of her house i.e. bed, almirah, cooler, cot, clothes and other necessary documents were burnt.

3. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in the present case. He further submitted that this is a concocted story as her husband along with her son and complainant (daughter-in-law) want to get rid of her and she has filed an application for maintenance under Section 125 Cr.P.C. and Protection of Women from Domestic Violence Act against her husband as he has not been maintaining her. He further submitted that nothing is to be recovered from the petitioner. He further submitted that petitioner is not involved in any other case and she is ready and willing to join the investigation.

4. In pursuance to issuance of notice of motion, learned State counsel, while placing on record status report dated 17.05.2023, has

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opposed the prayer for grant of anticipatory bail to the petitioner by submitting that from the statements of the neighbours recorded under Section 161 Cr.P.C. it transpired that house of the complainant was set on fire by the petitioner. Therefore, she does not deserve the concession of anticipatory bail.

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

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

7. In ***Bal Krishan Fauzdar v. State of Haryana 2018 (1) RCR Criminal 789***, it is held by a Co-ordinate Bench of this Court in para No. 8 as under: -

“.....It is well settled that custodial interrogation is more elicitation oriented since a person, who is couched in comparative safety of pre-arrest bail would certainly not disclose all the facts within his knowledge which would be inculpatory for him. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.”

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8. Perusal of record *prima facie* shows that petitioner set on fire the house of the complainant in which household article have been burnt. Allegations against the petitioner are serious in nature and investigation in the present case is at initial stage. Therefore, she does not deserve the concession of anticipatory bail as her custodial interrogation is necessary.

9. In view of the above, present petition is dismissed.

18.05.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No