

**210(2) IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-22847-2023 (O&M)
Date of Decision: 13.07.2023**

Moni

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Naveen Sharma, Advocate,
for the petitioners.

Mr. Joginder Singh Ratra, Sr. DAG, Punjab.
assisted by ASI Sahib Kumar.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short “Cr.P.C”) for grant of pre-arrest bail to the petitioner in FIR No.146 dated 09.07.2022, under Sections 323, 341, 379, 427 and 506 read with Section 149 IPC registered at Police Station Moti Nagar, District Police Commissionerate, Ludhiana.

2. Prosecution case in brief: petitioner along with co-accused tress-passed into the house of complainant (Peeto) during night, assaulted the complainant and her son, threatened to kill them and committed theft of activa bearing registration No. PB-10-2528, gold ornaments, cash, LCD, Air Conditioner, Washing machine and important documents like Aadhar card etc.

3. The Coordinate Bench of this Court vide order dated 08.05.2023, granted interim bail to petitioner and the same reads as under:-

“Prayer in this 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.146 dated 09.07.2022, registered under Sections 323, 341, 379, 427, 506 and 149 of the Indian Penal Code, 1860, at Police Station Moti Nagar, District Police Commissionerate, Ludhiana (Annexure P-1).

Learned counsel for the petitioner submits that the petitioner is a lady of 33 years of age and has falsely been implicated in this case on the complaint of one Preeto wife of Heera, who had alleged that on 30.09.2021, petitioner along with 15 co-accused persons, stole away precious articles from her house and also caused injuries, whereas, as per version of the petitioner, the present case is nothing but a counter-blast to the FIR (Annexure P-2) registered against the complainant party on the basis of statement of co-accused of the petitioner namely, Golu. Learned counsel further submits that no overt act/specific allegation is there against the petitioner and she has been named in the FIR only because of previous animosity between the parties. It is further submitted that the husband of the petitioner is behind the bars in some other case and it is the petitioner only, who has to look after her minor children. Learned counsel further submits that nothing is to be recovered from the petitioner; still, the application moved by her under Section 438 of the Code of Criminal Procedure, has wrongly been dismissed by learned Additional Sessions Judge, Ludhiana, vide order dated 25.04.2023 (Annexure P-3). It is also submitted that the petitioner is ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or trial Court.

Notice of motion.

On the asking of the Court, Mr. Subhash Godara, Additional Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State and opposes the petitioner's prayer for bail on the ground that stolen articles are yet to be recovered and for that purpose, custodial interrogation of the petitioner is required. He seeks time to get further instructions in the matter.

List on 13.07.2023.

Without commenting anything on the merits of the case; 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, the petitioner 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.”

4. Learned counsel on instructions from petitioner submits that in pursuance of the aforesaid order, she joined investigation and her custodial interrogation is not required by the Police.
5. The above factual position is duly acknowledged by learned State Counsel, on instructions from quarter concerned and fairly submitted that custodial interrogation of the petitioner is not required at this stage.
6. In view of above, interim order dated 08.05.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
7. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
8. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
9. Disposed off accordingly.
10. Pending criminal misc. application(s), if any, shall also stand disposed off.

13.07.2023
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No