

2023:PHHC:132519

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

205

CRM-M-28936-2023

Date of decision : 10.10.2023

Sunita Dhaliwal

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Priya Bansal, Advocate for
Mr. P.S. Miglani, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 438 of Cr.P.C. for grant of pre-arrest bail to the petitioner in case bearing FIR No.43, dated 06.03.2023, registered for the offence punishable under Section 304 of IPC at Police Station City-2, Khanna, Police District Khanna, District Ludhiana.

2. On 03.07.2023, following order was passed:-

“On request made by counsel for the petitioner, adjourned to 10.10.2023.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to her furnishing personal and surety bonds to the satisfaction of the arresting officer/Investigating Officer. As and when called, the petitioner shall join the investigation. She shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.”

2023:PHHC:132519

3. Petitioner is a midwife who has been booked in the present FIR for offence punishable under Section 304 IPC as the delivery conducted by her led to death of Rajni Rani.

4. Learned State counsel does not dispute that the petitioner has joined investigation pursuant to the order dated 03.07.2023. He, on instructions from ASI Charanjit Singh, further submits that custodial interrogation of the petitioner is no more required.

5. In view of above, the interim order dated 03.07.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

6. This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

7. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

8. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

9. It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the

2023:PHHC:132519

investigation or trial.

10. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

11. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

10.10.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No