

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 45476 of 2023
Reserved on :18.10.2023
Pronounced on :20.10.2023

RAJNI ALIAS RAJANI

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Baljeet Beniwal, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, DAG Haryana.

.....

SANJIV BERRY, J.

By way of present petition filed under Section 438 Cr.P.C the petitioner is praying for anticipatory bail in the event of arrest in FIR detailed as under:-

FIR No.	Dated	Sections	Police Station
33	09.02.2022	148, 149,313, 323, 506 IPC	P.S. Sadar Palwal, District Palwal

2. In *nutshell* the case putforth by the prosecution is that the FIR was registered by Rakesh stating that he is doing job of cleaning on temporary basis at Pingore Dispensary, on 08.02.2022 when he was dong his work at 11 a.m., Vidya came there and started shouting and abusing him

and told him that they will work here, as soon as he put his brooms on the floor, Anil grand son of Vidya gave stick blow on the head of the complainant and when the complainant turned back to save himself, the stick hit on the thumb of his right foot and while complainant trying to control himself one Vijay hit stick blow on his waist. On shouting for help his wife Santosh, sister-in-law Komal, who was carrying pregnancy of 7 months, came to rescue him. However they were attacked by Gopal, Pooja, Rajni and Aarti. Rajni gave kick blow on the stomach of Komal, as a result, bleeding started. On hue and cry, many villagers gathered there and the assailants ran away from the spot and hence the FIR.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the case. He submits that no recovery of any kind is got to be effected from the petitioner and Komal, though was pregnant, delivered a normal child, could not survive due to medical complications and for that petitioner cannot be held liable. He further submits that whole family of the petitioner has been implicated in the present FIR. Co-accused Vidya has already been granted concession of bail and as such he prayed for grant of concession of bail to the petitioner.

4. Per contra, learned State counsel opposed the bail application and submits that as per reply dated 16.10.2023 of Deputy Superintendent of Police, Palwal, District Palwal, petitioner is specifically named in the FIR. He further submits that injured Komal, Rakesh and Santosh were medico legally examined at Civil Hospital Palwal and Komal remained admitted till 09.02.2023 and placed on record MLRs of all injured as Annexure R-1

to R-3. Komal was again admitted to BK Hospital, Faridabad on 11.02.2022 where she gave birth to a premature child, who had died on 14.02.2022 during the course of treatment, autopsy was conducted and cause of death was “*Extreme prematurity with apnea of prematurity with extreme low birth weight*” (Annexure R-4). A clarification was sought from the Board of three Doctors who as per (Annexure R-5) cannot be ruled out possibility of premature delivery by physical assault. He submits that custodial interrogation of the petitioner is required and as such prayed for dismissal of the petition.

5. After considering the rival contentions and perusing the record, it transpires that as per the case of the prosecution, on 08.02.2022, Vidya, Rajni and their family members inflicted injuries on complainant, Komal-sister-in-law of complainant and other family members due to which Komal who was carrying 7 months pregnancy lost her premature child on 14.02.2022 during the course of the treatment. As per Reply submitted by the learned counsel for the State, it is categorically mentioned in Annexure R-5 which is report of Board of three Doctors of Civil Hospital, Palwal that “*Possibility of premature delivery by physical assault cannot be ruled out. However, circumstantial evidences should be taken into consideration*”. Therefore, considering the nature and gravity of offence, custodial interrogation of petitioner is required.

6. As per the allegations, it happens to be the petitioner who had given kick blow in the abdomen of victim resulting in the miscarriage of 7 months pregnancy and death of premature child. It cannot be said that petitioner was not aware of her pregnancy which being of 7 months,

certainly apparent physically. Thus, considering the serious nature and gravity of offence, finding no case being made out in favour of petitioner for grant of anticipatory bail, the petition is hereby dismissed.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

20.10.2023
Gyan

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No