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

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Date of decision: 25.09.2023

Nisha Sabharwal

....Petitioner

V/s

State of Punjab

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

Present: Mr. Naveen Bawa, Advocate for the petitioner.

Mr. Mohit Chaudhary, AAG Punjab.

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**ARUN MONGA, J. (Oral)**

After being declined bail by the trial Court, petitioner before this Court seeks her release as undertrial in a case bearing FIR No.0055 dated 17.03.2023 (Annexure P-1), registered under Sections 307, 323, 324 of the Indian Penal Code, 1860 (for short 'IPC')(Section 120-B, 473 IPC added later on) and Section 25 of the Arms Act, 1959 at Police Station, Salem Tabri, District Ludhiana.

2. Per prosecution version, on 16.03.2023, at about 8:30 p.m., a young boy named Mukesh came to the house of complainant-Rimpi and informed her that someone has attacked her husband-Arun Bhatti with sharp edged weapon. She immediately reached the scene of occurrence where her husband was lying injured. A sharp edged weapon had been used to inflict injuries on his head and left leg and other parts of his body. She took her husband to the Civil Hospital with the help of police. She stated that her husband was attacked by one Gaurav Chitkara @ Janu and his accomplices. An FIR was registered on her statement. During investigation, petitioner was arrested as a suspect accomplice of the prime accused- Gaurav @ Janu and is in custody since 26.03.2023.

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3. At the outset, learned counsel for the petitioner contends that similarly situated co-accused IshuSaraswaland Brij Pal have been accorded the concession of bail by this Court vide order dated 31.08.2023 (Annexure P-3) passed in CRM-M-40025-2023 and vide order dated 01.09.2023 (Annexure P-4) passed in CRM-M-40425-2023. He further argues that on the ground of parity alone, petitioner is entitled to be released on bail during pendency of trial.

3.1 On merits, he submits that neither petitioner was named in the FIR nor has any role/injury attributed to her. Petitioner has not been attributed any specific or overt or covert act. He further urges that petitioner was arrayed as an accused on the basis of custodial disclosure statement of one Vicky Sahota, allegedly another accomplice of prime accused-Gaurav. Petitioner has been arrested as a suspect on the basis of custodial disclosure statement of co-accused Vicky Sahota, which is not *per se* admissible in evidence. Other than that there is no evidence against her. Further points out that even the complainant has not made any allegation against the petitioner that she is in any manner a co-conspirator. None of the persons, who actually inflicted injuries have been arrested, while the petitioner continues to be in custody on an unfounded suspicion, formed on the basis of disclosure statement of co-accused, as aforesaid. Petitioner has been falsely implicated in this case.

4. On the other hand, learned State counsel opposes the bail petition. He submits that petitioner has committed a serious offence. He further submits that petitioner along with co-accused committed murderous attack which was so dreadful and serious that injured is still unfit to make any statement. If enlarged on bail in present case, there is every likelihood that petitioner may tamper with the evidence and/ or influence the witnesses.

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5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. On a Court query, learned State counsel, under instructions from ASI Raj Kumar, informs that challan was filed on 21.06.2023. Petitioner is thus not required for any further custodial interrogation.

7. Allegations against petitioner are amatter of trial at this stage. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Conclusion of trial is still likely to take long time as it is proceeding at a snail pace. Whereas,petitioner has already been languishing in jail for the past more than 6 months, being behind bars since 26.03.2023.

8. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if she is let out, she may either tamper with evidence and/or influence witnesses.

9. It is stated thatpetitioner is a 34-year old housewife having three minor children. Being family person and having clean antecedents and fixed abode, it is unlikely that she poses any flight risk and/or will flee from trial proceedings.

10. Co-accused of the petitioner have already been granted the concession of bail by this Court.

11. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

12. Accordingly, petitioner is ordered to be released on bailon her furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where her case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

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13. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
14. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)  
JUDGE

September 25, 2023  
*Ajay*

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| Whether speaking/reasoned: | Yes/No |
| Whether reportable:        | Yes/No |