

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

**CRM-M No.54903 of 2023 (O&M)
DATE OF DECISION : 17.11.2023**

Rupinder Kaur

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sant Pal Singh Sidhu, Advocate for the petitioner

Mr. Adhiraj Singh Thind, AAG Punjab

Mr. Arihant Goyal, Advocate and
Mr. Saurav Saini, Advocate for the complainant

ALKA SARIN, J. (Oral):

1. This is the second petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.160 dated 12.06.2017 under Sections 323, 324, 506, 354, 34 of the Indian Penal Code, 1860 (IPC) registered at Police Station Sultanpur Lodhi, District Kapurthala. The first petition being CRM-M-26251-2017 was dismissed by a Co-ordinate Bench of this Court by passing a speaking order dated 15.11.2018.

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2. Learned counsel for the petitioner would contend that the change in the circumstances is that earlier when the petitioner had approached this Court, though the FIR had been registered under Section 307 IPC amongst other Sections, however, the charges were not framed under Section 307 IPC and hence that would amount to a material change in the circumstances.

3. A status-report by way of affidavit of Babandeep Singh, PPS, Deputy Superintendent of Police, Sub-Division Sultanpur Lodhi, District Kapurthala has been filed wherein it has been stated that the FIR in the present case being FIR No.160 was registered way back on 12.06.2017 under Sections 323, 324, 307, 506, 34 IPC at Police Station Sultanpur Lodhi, District Kapurthala. The petitioner had earlier approached this Court by filing CRM-M-26251-2017. The same was dismissed by a Co-ordinate Bench of this Court by passing a speaking order on 15.11.2018. It has further been stated in the status-report that after the dismissal of the said petition the petitioner left the country and the Investigating Officer got arrest warrants issued on 06.03.2019 followed by issuance of Look Out Circular bearing No.10728-29/C dated 25.03.2019. The present petitioner, whose proclamation process was issued by the said Court, was not declared a proclaimed offender as the concerned Court had directed the then SHO to take necessary action for getting her deported from the country she had fled to.

4. The FIR in the present case was registered on 12.06.2017 on the statement of the complainant where she alleged that in the year 2011 she was married with Harpritpal Singh and after some time of marriage her in-laws'

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family started harassing her. Out of the wedlock, two daughters were born. It was further alleged that her in-laws' family was a rich family owning petrol pump, pesticides shop, fertilizer store and cement store and also owned land. They would often taunt her and did not consider her upto their level. It was further alleged that she was beaten a number of times and her father-in-law used to make obscene gestures at her. Earlier also the matter was compromised before the Panchayat and at that time she remained in her parental house for about one year and even after the compromise the behaviour of the in-laws did not change. It was further alleged that on 10.06.2017 at about 10.00 pm the husband of the complainant Harpritpal Singh started quarrelling with her on the issue of breakage of a tap in the house and abused her and gave beatings and while beating her he called up her brother Gurtej Singh and while the brother was on phone the husband started abusing her brother also and started advancing threats. While talking to the brother, the accused kept on beating the complainant. The husband of the complainant then made a phone call to his cousin Nirvair Singh and asked him that they had to go to Patti Tarn Taran as the brother of the complainant was challenging him and while hurling abuses the husband went out of the house and the complainant is stated to have followed him. It is further the allegation that the father-in-law Harjinder Singh was holding an iron patti, mother-in-law Paramjit Kaur and sister-in-law Rupinder Kaur (petitioner herein) were holding *dandas* in their hands. Nirvair Singh, son of Pargat Singh who is the son of the husband's uncle, holding a *danda*, was also standing outside. It is further alleged that the father-in-law raised a *lalkara* to catch hold of the complainant and finish the dispute and on saying

so the father-in-law is alleged to have given a fist blow on the left side of head of the complainant and then the sister-in-law Rupinder Kaur (petitioner herein) and mother-in-law Paramjit Kaur, after putting a dupatta around her neck, dragged her and said that she be strangled. During this incident the neck of the complainant was pressed with dupatta and her husband gave fist blow on her mouth and blood started to ooze from her teeth. Nirvair Singh gave stick blows on her back and thereafter Harjinder Singh, who was holding an iron stick, gave a blow on her left arm and with an intention to outrage her modesty caught hold of her hair and threw her and tried to drag her. Her mother-in-law is also alleged to have given a stick blow on her right hip and the sister-in-law Rupinder Kaur (petitioner herein), who was also holding a stick, gave a blow on her left hip and the husband gave her kick blows which hit on her right ankle. Thereafter, on hearing noises, her daughter woke up and pleaded with her father not to give her mother any more beatings. Eventually the husband rescued her from all of them. The entire incident was disclosed to Gurtej Singh, the brother of the complainant, and thereafter the FIR was lodged.

5. The petitioner preferred CRM-M-26251-2017 seeking anticipatory bail. While dismissing the said bail application on 15.11.2018, the following observations were made :

“Appreciating the submissions of the two sides, the medico legal report in itself suggestive of the physical atrocities upon the complainant by the accused side. There are eight injuries detailed therein on different

parts of the body and even the ligature mark opined on the neck is suggestive and lends corroboration to the case of the prosecution. The claim of the petitioners that the complainant has fabricated injuries or the version spelt out by her is concocted one, prima facie on the face of the records and the evidence belies the same. Keeping in view what has been detailed and discussed above, in this modern era where women who belong to weaker sex are being given preferential treatment in such cases of ill treatment for which special legislation has been enacted. The conduct of the accused on the face of the records shakes judicial conscience. No case for grant of anticipatory bail to any of the accused is made out. More-so provisions of Section 438 Cr.P.C. are to be used sparingly. Both the petitions being without any merits, stand dismissed.”

6. Subsequently, the petitioner is stated to have left the country and even today the address as given by her in the petition is that of Brampton, Ontario, Canada. As per the status-report, arrest warrants were issued on 06.03.2019 followed by a Look Out Circular on 25.03.2019. The learned counsel for the State has further stated that the arrest warrants were got issued by the Investigating Officer as the Investigating Officer was making efforts to get the proceedings initiated under Section 82 CrPC. However, the Court was of the opinion that since the petitioner had left the country the proceedings could not be initiated till service was effected and

directed that necessary action be taken to get the petitioner deported to the country. The petitioner has been evading arrest since 2017 as she had fled from the country in 2017-2018 after the dismissal of her anticipatory bail application by this Court on 15.11.2018. The argument of the learned counsel that the second anticipatory bail application would be maintainable in view of the changed circumstances cannot be accepted especially in view of the conduct of the petitioner, who has been evading the process of law since 2017-2018.

7. The Hon'ble Supreme Court in the case of **G.R. Ananda Babu Vs. State of Tamil Nadu & Anr. [2021 (1) RCR (Criminal) 843]** has held as under :

“Leave granted.

2. Heard learned counsel for the parties.

3. This appeal takes exception to the judgment and order dated 24.11.2020 passed by the High Court of Judicature at Madras in Crl. O.P. No.18412 of 2020, granting anticipatory bail to respondent No.2 in connection with FIR No.153 of 2019 for the offences punishable under Sections 143, 436, 302, 307, 149 and 120B of Indian Penal Code.

4. The incident in question has occurred on 11.11.2019. Respondent No.2 applied for anticipatory bail before the High Court first vide Crl. O.P. No.32759 of 2019, which came to be rejected by a speaking order

dated 20.12.2019. Despite rejection of anticipatory bail by the High Court, respondent No.2 after some gap moved another application for anticipatory bail being Crl. O.P. No.8023 of 2020 which for reasons, cannot be discerned from the record, was heard by another judge. Nevertheless, it was rejected vide a speaking order dated 29.05.2020 and more importantly taking note of the fact that there was no change in circumstances and the investigation was still incomplete. Respondent No.2 then moved a third anticipatory bail application being Crl. O.P. No.18412 of 2020, which has been allowed by the impugned judgment by the same Judge, who had rejected the second anticipatory bail application, referred to above, vide order dated 24.11.2020 (impugned order).

5. On this occasion, the learned Judge recorded following reasons for acceding to the request for grant of anticipatory bail to respondent No.2. The same read thus :

"(i) The date of occurrence is 11.11.2019.

(ii) Other 13 accused were arrested and surrendered, their confessional statements were recorded and they were released on bail.

(iii) 127 private witnesses were examined and their statements were recorded.

- (iv) 12 months is over from the date of occurrence.
- (v) Six months have passed from the date of dismissal of earlier anticipatory bail application.
- (vi) The petitioner is aged 69 years alleged to be suffering from age related ailments and he is willing to co-operate with the investigation."

6. We have perused the status report submitted by the Investigating Officer before the High Court for consideration along with case diary, clearly indicating that custodial interrogation of respondent No.2 is essential and the investigation is still incomplete. Nevertheless, on the third occasion, the learned Judge acceded to the request of respondent No.2 and granted anticipatory bail, without referring to these crucial facts noted in the status report. None of the reasons cited by the learned Judge, in our opinion, can be said to be just basis to show indulgence to respondent No.2.

7. As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (respondent No.2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications,

once it is rejected by a speaking order and that too by the same Judge.

8. To observe sobriety, we refrain from making any further observation, except to observe, that the impugned order, to say the least, is perverse; and also because no prejudice should be caused to respondent No.2 and affect the trial against him.

9. Accordingly, the impugned judgment and order is set aside. The Investigating Officer is free to take respondent No.2 into custody forthwith.

10. The appeal is allowed in the above terms.

11. Pending applications, if any, stand disposed of.”

8. In the present case, the first anticipatory bail application was dismissed by a detailed speaking order on 15.11.2018. Keeping in view the conduct of the petitioner as well as the judgment of the Supreme Court in the case of **G.R. Ananda Babu** (*supra*), I do not find this to be a fit case for grant of anticipatory bail to the petitioner. The petition is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.11.2023
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(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO