

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28233-2024
Reserved on: 05.08.2024
Pronounced on: 30.08.2024

Anju ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Jagdish Singh Mahal, Advocate
for the petitioner.

Mr. Malkiat Singh, D.A.G., Punjab.

Mr. B.B.S. Randhawa, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0031	04.04.2024	Fatehgarh Churian, Police District Batala, District Gurdaspur	304/506/34 IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC, 1973, seeking anticipatory bail.
2. In paragraph 11 of the bail petition, the accused declares that she has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“5. That, it is humbly submitted that the brief facts of the case are that the present FIR has been registered in the wee hours of 04.04.2024 upon the statement of complainant Lovepreet Kaur on the allegations that her husband had given certain amount to accused Abhi and co-accused Bittu @ Gurdev Singh who were working as travel agents on their inducement that they would send him abroad on work permit. However, accused Gurdev Singh @ Bittu had sent him to Dubai on tourist visa for which he had to return back to India. Therefore on 03.04.2024, at about 9:30 PM, the complainant along with her husband and father Nishan Singh went to the house of accused Gurdev Singh where all the accused were present. When they asked them to return

their money, all the aforesaid accused including the accused Gurdev Singh @ Bittu pushed Nishan Singh on the ground due to which he started having trouble in breathing. As per the allegations of the complainant, thereafter accused Abhi gave punch blow in the chest of Nishan Singh and told that it did not matter to him if Nishan Singh would die. Thereafter all the accused also started threatening them that if they would again demand their money back, they would also be eliminated. Since condition of Nishan Singh deteriorated, they took them to Civil Hospital Fatehgarh Churian and the accused also followed them to the hospital in their separate Car. However when the doctors declared Nishan Singh to be brought dead, the accused left the hospital after leaving behind their Car. As per the contents of the FIR, the complainant has stated that she had got the FIR registered after delay as she was waiting for her relatives.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.
5. The State's counsel opposes bail and refers to the status report.
6. It would be appropriate to refer to the following portions of the status report, which read as follows:

“A) Role of the petitioner

That, the allegations against the petitioner/accused are serious in nature that when deceased had come to their house alongwith complainant and her husband to demand their money back, she alongwith other co-accused pushed the deceased on the ground and her husband Abhi gave punch blow in chest of Nishan Singh due to which he collapsed. Admittedly he was declared being brought dead by the concerned hospital. As per the copy of the postmortem report of Nishan Singh, the cause of death has not yet been given and it is rather mentioned that the same can only be ascertained after receiving HPE and report of chemical examination. However the probable time between the injury and death is stated to be of few minutes. The investigation in this FIR is not only about the cause of death of Nishan Singh but it is also likely to revolve around the alleged previous transaction regarding sending husband of the complainant to the foreign country and the subsequent dispute which led to the alleged occurrence. If granted the bail, there is every likelihood that the accused may hamper or interfere in the investigation and may not cooperate in the same because a person under pre-arrest bail may not disclose all the relevant facts under questioning due to the safeguard provided to her while granting anticipatory bail.

B. The evidence against the petitioner

As per the statement got recorded by Lovepreet Kaur complainant at the time of registration of the case to the effect that when she and deceased had come to the house of accused to demand their money back, the accused/petitioner along with other co-accused pushed the deceased on ground and his co-accused Abhi gave punch blow in chest

of Nishan Singh due to which he collapsed. Admittedly he was declared being brought dead by the concerned hospital.”

7. The petitioner did not cause any beatings, nor can she be called to have shared any common intention with Abhi, who had given a fist blow.

8. There is no sufficient prima facie evidence connecting the petitioner with the alleged offense, and it is neither a case for custodial interrogation nor pre-trial incarceration.

9. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaka Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. This order is subject to the petitioner's complying with the following terms.

14. The petitioner is directed to join the investigation within seven days and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the

prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

16. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

17. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

18. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.