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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.289

CRM-M-30862-2024 (O&M)
Date of decision : 21.08.2024

Kiranpreet Kaur Petitioner

VERSUS

State of Punjab Respondent

CORAM: HON’BLE MS. JUSTICE KIRTI SINGH

Present: Dr. Anmol Rattan Singh Sidhu, Senior Advocate with
Mr. Kanishk Swaroop, Advocate, for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. K.B. Raheja, Advocate, for the complainant.

KIRTI SINGH, J.

1. Apprehending arrest in FIR No.56 dated 15.09.2023, under Sections 452, 323, 506, 427, 336, 148 & 149 IPC and Sections 25 & 27 of the Arms Act, 1959, registered at Police Station Fatehgarh Panjtoor, District Moga, the petitioner has preferred this petition under Section 438 Cr.P.C. for grant of pre-arrest bail.
2. Succinct factual narrative relevant for the disposal of the instant petition is that the above-said FIR has been registered against Gurbachan Singh son of Gian Singh, Saraj Singh son of Sukhdev Singh @ Sukha, Sukhdev Singh @ Sukha son of Pooran Singh all residents of Tibbi Arriyan, District Ferozepur, Angrej Singh, Gurmit Singh son of Angrej Singh, Gurpreet Singh son of Angrej Singh all residents of village Asif Wala, District Ferozepur, Gurjit Kaur wife of Jarnail Singh resident of village

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Khambe, District Moga and 20 unknown persons accused on the basis of statement of Jarnail Singh son of Nishan Singh resident of village Fatehgarh Panjtoor with the allegations that in the year of 2002, his marriage was solemnized with Gurjit Kaur d/o Angrej Singh. There was a matrimonial dispute between them due to which Gurjit Kaur left the house while giving threats. On 14.09.2023 at about 05.15 PM when he was present at his house then a Swift Car arrived there, out of which Gurbachan Singh armed with pistol (cousin of Gurjit Kaur), Saraj Singh s/o Sukhdev Singh armed with .315 bore rifle, Suhdev Singh @ Sukha armed with baseball bat, Angrej Singh armed with baseball bat, Gurmit Singh armed with pistol, Gurpreet Singh armed with baseball bat, Angrej Singh and 15-20 unidentified persons armed with dangs, alighted and entered into the house of complainant. Gurjit Kaur raised lalkara, then Gurbachan Singh, Saraj Singh and Gurmeet Singh fired shots towards complainant, but complainant saved himself by laying on the ground. Due to firing the windows, dressing table and washbasin were damaged. Accused persons also picked up the empty cartridges. After that Angrej Singh gave blow of his baseball bat which hit on the legs of the complainant. Gurpreet Singh gave blow of his baseball bat on the arms of complainant. All other accused persons have also caused injuries on person of complainant. On raising hue and cry Kiranpreet Kaur came there and when she tried to save the complainant then accused persons also caused injuries on her person with their respective weapons.

2.1 On 15.09.2023 Gurmeet Singh son of Kundan Singh resident of Asif Wala got recorded his statement with the police alleging that his sister Gurjit Kaur was married with Jarnail Singh son of Nishan Singh. On

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14.09.2023 at about 5.30/6.00 PM he visited the matrimonial house of his sister Gurjit Kaur where Mehal Singh had raised a lalkara to kill Gurjit Kaur. Mehal Singh caught Gurjit Kaur from her arms. Thereafter, Kiranpreet Kaur (present petitioner) tried to forcibly pour some poisonous substance in the mouth of Gurjit Kaur. Gurjit Kaur tried to save herself and the said poisonous substance fell and spread on her body and clothes. Further, Jarnail Singh and Kiranpreet Kaur (present petitioner) tried to kill Gurjit Kaur by strangulating her with the help of a rope. Then Beant Singh fired a shot which hit on the chest and left shoulder of complainant then Beant Singh fired another shot which hit on the left leg of the complainant. After that Sewa Singh gave blows of his dang which hit on the left leg and thigh of complainant. Jarnail Singh also fired shots in the air. Mehal Singh also gave kick blows to Gurjit Kaur. On the basis of statement of Gurmeet Singh son of Kundan Singh resident of village Asif Wala, a case of cross version under Sections 307/323/336/148/149 IPC and Sections 25/27 Arms Act has been registered against Jarnail Singh son of Nishan Singh, Mehal Singh son of Shingara Singh, Sewa Singh, Beant Singh son of Gurnam Singh and Kiranpreet Kaur (present petitioner) has been registered vide DDR No.56 Dated 15.09.2023. Brief facts of the same are that Gurmeet Singh got recorded his statement with the police.

3. Learned senior counsel appearing on behalf of the petitioner submits that admittedly, it is a case of version and cross-version and the petitioner has also received injuries during the incident. It is also contended that nothing is to be recovered from the petitioner and custodial interrogation

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is not required by the police. She is willing to join investigation as and when required by the investigating officer.

4. *Per contra*, learned State counsel assisted by learned senior counsel for the complainant argued that there are serious allegations against the petitioner. The accused persons in criminal conspiracy caused fire-arm injury on the person of Gurmit Singh and also tried to strangle Gurjit Kaur and forcibly tried to administer poisonous substance in the mouth of Gurjit Kaur as they wanted to eliminate Gurjit Kaur.

5. Heard the rival submissions made by both the learned counsel for the parties and have perused the relevant record.

6. The medical report and the relevant portion of the report is reproduced below:-

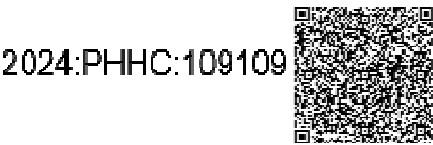
‘Government of Punjab

CH Moga

(Form-II)

Medical Legal Report

Gist of incident as stated by the injured/accompanying person			
Gist of incident		Alleged history of assault any pesticide smell coming from the cloth	
General condition of the person, clothing etc.			
General condition		Patient calm conscious well oriented to lpp.	
Sr. No.	Injuries	Marked	Injury number
1	Ligature mark 15 cm. chin to 3 cm. below, left ear to 2.7 cm., right ear to 4cm.	Yes	1
2	Complaining abdominal pain due to	Yes	2



	blunt injury		
3	Back pain	Yes	3
4	Legs pain	Yes	4

7. As per the abovesaid medical report, the presence of ligature mark (injury No.1) and the presence of smell of pesticide is detected on the clothes of Gurjit Kaur.

8. The submissions made by the learned senior counsel appearing on behalf of the petitioner that the custodial interrogation of the petitioner is not required does not hold any ground. It has been held by the Hon’ble Supreme Court in the case of **Sumitha Pradeep Vs. Arun Kumar C.K. and another, 2022 Live Law (SC) 870**, wherein Hon’ble Supreme Court has opined that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused-petitioner. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation. Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail. We are dealing with a

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matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the

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punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

9. In view of the foregoing discussion, the present petition stands dismissed.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

21.08.2024
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No