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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.56624 of 2024
Date of Decision: 29.11.2024

Nazira Begum @ Bashiran ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mohd. Jameel, Advocate,
for the petitioner.

Mr. Satjot Singh, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
48	03.05.2024	City-I Malerkotla, District Malerkotla	315, 325, 323 and 452 of IPC

2. Adumbrated facts as emanating from the record are that the aforementioned FIR had been registered on the basis of complaint lodged by the complainant Salma Sultan alleging therein that she was pregnant and had come to meet her parents. On 06.10.2023 at about 6-7 PM, the co-accused Adrish and Mohd. Kasif @ Kasi scaled over the wall of the house of parents of the complainant and after criminally trespassing

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therein, they opened the main gate of the house thereby letting 12-13 unknown persons and the petitioner and co-accused enter therein. The petitioner and co-accused opened an attack upon her family members and herself. All of them extended beatings to her father and herself. They also gave fist blows on her abdomen. She was kicked. She had started bleeding and was rushed to hospital. The still born child was delivered to her during the course of her treatment. She was discharged after a gap of 4-5 days. Her statement had been recorded by the police but no action had been taken. After registration of FIR, investigation proceedings were initiated.

3. It is argued by learned counsel for the petitioner that she has been falsely implicated in this case. The version of the complainant was not trustworthy as in her complaint she had narrated the time of occurrence as 6-7 PM whereas during enquiry, she disclosed that the occurrence took place at 8:40 PM. In the enquiry conducted by SP (Investigation), she was not found to be involved in the occurrence. No medical examination of the father of the complainant had been conducted to show that he had sustained any injury in the incident. Out of three injuries, two found on the person of the complainant were opined to be simple in nature. In her application for grant of pre arrest bail as filed before the Sessions Court, investigating agency had submitted that the petitioner was not required to be arrested in the case. She has been again implicated in this case on false allegations. No recovery is to be effected from her. There is inordinate and unexplained delay in reporting the matter to the police. Her custodial interrogation is not required. She is ready to join the investigation. With these broad

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submissions, it is urged that she deserves to be extended benefit of pre arrest bail.

4. Per contra, learned State counsel in terms of the status report filed by the respondent-State has argued that the petitioner was named in the FIR as Bashira Parlor Wali. It was also specifically alleged against her that she along with the co-accused Adrish and Kasi and some unidentified persons had assaulted the complainant thereby causing death of the foetus in the womb of the complainant. The complainant was medically examined on 06.10.2023 itself. As per the medico legal report, she had given history of being assaulted by her neighbourers. The matter had been reported to the police in time. The allegations against her are grave in nature. Her custodial interrogation is required for conducting thorough investigation in the matter by the police. Even otherwise, no exceptional or extraordinary circumstance has been made out to extend benefit of pre arrest bail to her. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

6. The petitioner along with the co-accused is alleged to have criminally trespassed into the parental house of the complainant on 06.10.2023 and is alleged to have voluntarily caused injuries to her and is further alleged to have caused the death of the foetus in the womb of the complainant by giving kicks and fist blows to her. She was named in the FIR itself. Though a plea has been taken by her that she was not found to be involved in the incident as per the enquiry report. However, it has come on

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record that her complicity in the subject offences has been established during the course of investigation. The allegations against the petitioner are serious in nature. For conducting thorough investigation in the matter, the custodial interrogation of the petitioner is must. It is well settled proposition of law that arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purposes. The powers of anticipatory bail are extra ordinary and the same are to be exercised sparingly in exceptional circumstances. The judicial discretion conferred upon the Court has to be properly exercised after application of mind as to the nature and gravity of the accusation, possibility of applicant fleeing from justice and other factors to decide whether it is a fit case for grant of anticipatory bail as such grant to some extent interferes in the sphere of investigation of an offence. The Court has also to see that an order of anticipatory bail should not operate as inroad in the normal legal procedure of criminal cases by the trial Court. The custodial interrogation of a suspected person is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of anticipatory bail. The Court must be circumspect while exercising such power for grant of anticipatory bail and it should not be granted as a matter of rule and has to be granted only when the Court is convinced that exceptional circumstances exist to resort to that extra ordinary remedy. In the present case, no such exceptional circumstances warranting exercise of the powers for grant of anticipatory bail by this Court are existing. As such, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, the

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same is dismissed.

7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

29.11.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No