

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CRM-M-9-2024 (O&M)
Date of Decision : January 08, 2024

BIMLA

-Petitioner

V/S

STATE OF HARYANA

-Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Mayur Karkra, Advocate
for the petitioner.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner seeks the concession of anticipatory bail in case FIR No.40 dated 04.02.2023, registered under Sections 147, 148, 149, 323, 452, 506 of the IPC (Section 302 of the IPC added subsequently), registered at P.S. City Narwana, District Jind.
2. The learned counsel for the petitioner, in his asking for the relief (supra), submits that, in order to exaggerate the magnitude of the offence(s), the petitioner has been falsely implicated in the instant FIR. Apart from the petitioner, her family members have also been arraigned as accused in the instant FIR and they have been alleged to be culpable for commission of the incident, wherein, the demise of an old lady, namely, Misro had occurred. He further submits that even under the aid of Section 149 of the IPC, the petitioner cannot be fastened with any liability for commission of offence punishable under Section 302 of the IPC, as she had entered the house of the complainant empty handed.

3. The learned counsel for the petitioner has placed reliance upon the judgment rendered by the Hon'ble Supreme Court in case titled as *"Siddharam Satlingappa Mhetre V/s State of Maharashtra and others"*, 2011(1) SCC 694, wherein, the Hon'ble Supreme Court has reiterated the basic law that *"bail is rule and jail is exception"*. It has been further held therein that a person, who seeks anticipatory bail, need not establish special circumstances for grant of anticipatory bail.

4. The learned counsel for the petitioner has also placed reliance upon the judgment rendered by the Hon'ble Supreme Court in case titled as *"Sherey V/s State of U.P.", 1992(1) R.C.R. (Criminal) 287*, to contend that since there was no overt act attributed to the petitioner in that case, therefore, the Hon'ble Supreme Court held that the provisions of Section 149 of the IPC are not attracted.

5. This Court has examined the facts and circumstances of the present case in entirety. The prosecution story is rooted in the statement of one Barkha wife of Raju. Therefore, before evincing any opinion upon the instant petition, it is deemed imperative to reproduce the relevant extract of the statement made by said Barkha, which is reproduced hereinafter:-

"....Stated that I am resident of the abovementioned address and I am household lady having one child aged about 2 years, such that yesterday night at about 10:30 P.M. I and my husband Raju along with my brother-in-law Somu along with my Dadi Saas Misro were sitting in our house, whereby I had told my husband to bring diaper for our child and while my husband was stepping out of the house in order bring the diaper, then my husband went into the street where Ajay S/O Momo was standing in the street before hand and he started abusive my husband in loud voice. After listening the loud voice I stepped out the house and stood by the gate and saw that my husband was refraining Ajay from abusing

*him on which Ajay slapped my husband, whereby, my husband came back to the house, suddenly Ajay brought sword from his house along with his family members and relatives namely Suraj S/O Ram Saroop with gandasi in his hand, Sethi S/O Oma with danda in his hand, Sonu S/O Momu having hockey stick in his hand, Bittu S/O Abbu, Gulu S/O Balwan, Baba S/O Ram Kumar caste Charan, Gaurav S/O Rajesh, Bimla W/O Ram Saroop (Petitioner) all entered her house together since we were sitting in one room of the house therefore, all the above mentioned person attacked upon us such that Ajay gave sword below on the head of my husband from the backside which hit my husband in his head, thereafter Suraj gave gandasi below to my Dadi Sass (Mother-in-law) from the blunt side further Sethi, Sonu and Bittu gave Danda blows to my husband, mother-in-law and my brother-in-law Somu. **Baba, Gaurav and Bimla (petitioner) gave slap and fist blows to me, my husband and my Dadi Saas (Mother-in-law), on which we raised hue and cry whereafter, all the said persons fled away from the spot along with their weapons after seeing the people gathered there and while running away Bimla Said that today you have been saved but the next time we will kill and we will not allow to remain in the neighbourhood. I have saved my children from this fight with great difficulty whereafter the neighbours called for an Ambulance on which I got admitted, my husband, my mother in law (Dadi Sass) and Brother-in-law at Nagrik Hospital for their treatment...."***

6. A perusal of her above extracted statement, which led to registration of the instant FIR, reveals that the petitioner is one of the assailants, who actively participated in the incident, as she gave fist and slap blows to the deceased Misro and to other injured persons also. Not only this, while exiting the house of the complainant, the petitioner had even extended threats to kill the complainant party in future.

7. Taking into consideration the role attributed to the present petitioner, inasmuch as, she actively participated in the commission of the

incident, wherein, an old lady lost her life by succumbing to the injuries inflicted upon her, this Court, at this stage, cannot evince any opinion in favour of the petitioner, that she was not sharing any common object with other assailants, for thereby absolving her from the liability as fastened upon her under Section 149 of the IPC.

8. Moreover, considering the gravity of the offences committed, this Court is not inclined to grant the concession of anticipatory bail to the petitioner. Consequently, the instant petition is **dismissed** being devoid of merits.

9. Pending application(s) stand disposed of accordingly.

10. It is also made clear that the observations hereinabove are only for the purpose of deciding the instant petition and the same shall not be construed to have any bearing on the merits of the case.

January 08, 2024
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(KULDEEP TIWARI)
JUDGE

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