

**In the court of Sh. Vishesh,
Additional Sessions Judge, Fazilka.
(UID No. PB-0228)**

	B.A. No. 31/2024 CNR No. PBFZC0-000055-2024 Date of Order :- 15.01.2024
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Sunita Rani, aged 39 years, wife of Vinod Kumar son of Jhangi Ram son of Bhagwati Parsad, resident of Street No. 8, Radha Swami Colony, Tehsil and District Fazilka.

.....Applicant-accused.

Versus.

State of Punjab.

.....Respondent.

FIR No. 216 dated 26.12.2023
U/s : - 452/354/323/506/34 of IPC.
Police Station : City Fazilka.

[Bail application U/s 438 (i) of Cr.P.C.]

Present: Sh. Pardeep Kumar, Advocate counsel for the applicant.
Ms. Shikha Dhall, Addl. PP for the State assisted by Sh. V.K. Solanki, Advocate counsel for complainant.

ORDER:

Present order of mine shall dispose off bail application filed by applicant- Sunita Rani.

2. Brief facts of the bail application are that the applicant/accused did not commit any crime as alleged in the FIR. It has been stated that husband of applicant/accused is real brother of husband of complainant and earlier the husband of complainant, Vinod Kumar husband of applicant/accused and his father alongwith grandfather of Vinod Kumar non applicant namely Bhagwati Parsad resided together in the house i.e. property no. 597 (old) new property no. 2/780. It has further been stated that during the life time of Bhagwati Parsad grandfather of husband of applicant/accused executed a registered will regarding the above residential house infavour of Vinod Kumar husband of applicant/accused (1/4 share), husband of complainant (1/4share), his son

Jhangi Ram (1/4 share) and daughter Meera Bai (1/4 share). Prior to the date of execution of Will the complainant and her husband quarreled with applicant/accused, father Jhangi Ram and his other family only to illegally occupy the share of Vinod Kumar non applicant in house. It has further been stated that the story of the complainant is totally false and having no iota of truth in it and the husband of applicant/accused is coparcener in the house in which the alleged occurrence has been shown by the complainant. It has further been stated that neither the applicant/accused caused any injury to complainant nor outraged her modesty and the complainant concocted a false story in connivance with her husband only to achieve their illegal goal. It has further been stated that initially the allegations regarding house trespass and outraging her modesty were found false by the police and the police has entered a Rapat no. 53 dated 16-08-2023 and subsequently on the basis of said rapat the proceedings Under Section 107/151 Cr.P.C. were initiated against the husband of applicant/accused. It has further been stated that Vinod Kumar also filed a civil suit regarding partition of the house in question being coparcener and the husband of the complainant also filed a civil suit regarding the abovesaid house. It has further been stated that the complainant and her husband are habitual to file false litigation. It has further been stated that prior to present occurrence the husband of complainant also filed a criminal complaint against the applicant/accused and her husband and the same was dismissed by the court of Sh.Pardeep Synghal the then Ld. JMIC, Fazilka on dated 06-06-2019 and the criminal revision filed against the said order also dismissed on dated 09-08-2022. It has further been stated that after the Rapat no. 53 dated 16-08-2022, the complainant filed a criminal complaint in the court of Ld. CJM, Fazilka and after that the present false FIR was registered on dated 26-12-2023 after the gap of more than 4 months. It has further been stated that no specific role has been attributed to the applicant/accused as per the contents of the FIR. Hence, it is prayed that applicant be admitted to bail.

3. Upon notice, learned Addl.PP for State appeared and contested the bail application.

4. I have heard learned counsel for applicant, learned Addl.PP for State and have gone through the records of the case file carefully.

5. In brief, the facts as narrated in the FIR are that at 5:45 PM to 6 PM on 15/8/2022 complainant Anupama, along with her two minor daughters was present in her house and at that time her husband had gone to work. It was further stated that applicant along with other accused knocked the door of their house. When she opened the door, they entered her house and started making video on their mobile phone. When she tried to stop them from doing so, they grappled her and used foul language against her. Thereafter, accused Jhangi Ram raised Lalkara, that complainant be taught lesson of taking possession of their land. On this applicant along with co-accused Vinod Kumar started giving beatings to her. Vinod Kumar co-accused dragged her from her hair and gave fist blows on her person on her back and shoulders. It is further alleged that he also gave slaps to her. They tore her shirt and touched her body parts. It is further alleged that at that time applicant/accused Sunita Rani made a video on her mobile phone. It is further narrated that the complainant somehow saved her from the clutches of the accused and thereafter her minor daughters started raising clamor which attracted her neighbours at the spot and on seeing them all the accused left the spot while threatening her that if she will not handover the possession of the property, they will make her video viral on the Internet. It is further narrated that thereafter, the complainant was admitted at Civil Hospital, Fazilka where she was medically examined and given treatment. It is further alleged that even though the husband of complainant moved an application before the police but no action was taken against the accused persons. Thereafter, the complainant filed an application under section 156 (2) of CRPC before learned Ilaka Magistrate consequent upon which the present FIR was registered.

6. Learned counsel for applicant has argued that the occurrence is alleged to have taken place on 15/8/2022 but the FIR has been registered after lapse of more than one year. He has further argued that the first version was put forth by the complainant vide DDR no. 53 and in the

same the allegations of alleged outraging of modesty were not raised against Vinod Kumar, co-accused but were raised against applicant/accused Sunita Rani. It has been further argued that there is a property dispute between the complainant and the accused persons. He has further argued that even as per version recorded in the DDR, it is evident that complainant is not admitting that Vinod Kumar co-accused is also entitled for share in the property as per Will executed by Bhagwati Prasad and claims only her right and right of her husband over the property which they otherwise admitted in the Self Declaration dated 27/08/2019. He has further argued that a civil suit has already been filed regarding the said property before Civil Court at Fazilka. He has further argued that the occurrence is alleged to have lasted till 6 PM but it is highly improbable that the complainant got herself admitted at Civil Hospital at 5:55 PM on the same day. He has further argued that as per police proceedings recorded in the FIR only offence under section 323/34 of IPC are made out. He further argued that as per copy of application dated 22/08/2022, moved by husband of complainant before SSP, Fazilka, there are no averments that any of the accused tried to outrage the modesty of complainant. In the end, he has made a prayer that applicant be admitted to bail.

7. After going through the police record it transpires that applicant is sister-in-law of complainant. There also remains no doubt that there is a property dispute between the complainant and the accused persons. There is a deviation in the allegations qua outraging of modesty of complainant as recorded in the DDR and FIR. No recovery is required to be affected from the side of the applicant. Applicant can be directed to join investigation. Consequently, the applicant is admitted to interim bail and she is directed to join the investigation with the Investigating/Arresting Officer and on her appearance before the Investigating/Arresting Officer, she is ordered to be released on interim bail to the satisfaction of Investigating/Arresting Officer, subject to the following conditions:-

(a) that she will not tamper with the prosecution evidence

and will not offer any threat, promise or inducement, directly or indirectly to any of the person acquainted with the facts of the case, dissuading them from disclosing the same to the court/investigating agency;

(b) that she will not leave the limits of this country without prior permission of the court; AND

(c) that the applicant/accused will join the investigation with the Investigating Officer on **20.01.2024** between 12.00 noon to 2.00 pm.

A copy of this order be delivered to applicant free of costs for handing over the same to the IO for compliance of the order. Now to come up on **22.01.2024** for report, on which date, arguments on the present bail application will be heard.

Sd/-

Pronounced in open court.
Dated :- 15.01.2024

(Vishesh)
Addl. Sessions Judge,
Fazilka. *UID No: PB0228*

Typed by :- Akhil Dania,
Stenographer Grade-III.