

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No. M-23212 of 2015

Date of decision:- July 27, 2015

Saroj Hooda

.....Petitioner..

Vs.

State of Haryana

....Respondent..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Anil Kumar Lamdharia, Advocate,
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Mr. Sanjay Vashisth, Advocate,
for the complainant.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

JASPAL SINGH, J.

This is a second petition preferred under Section 439 of the Code of Criminal Procedure (for short, 'Code') by Saroj Hooda seeking regular bail in case FIR No. 48, dated 26.05.2014, under Sections 148, 149, 323, 452, 302 IPC and 25/54 of the Arms Act, 1959, Police Station MDC Panchkula, as first petition was dismissed as withdrawn on March 09, 2015.

2. Shortly put, case of prosecution got registered by Krishan Bhardwaj is that on the intervening night of May 25/26, 2014 at about

1:30 a.m., he heard some noise coming from the terrace of his house where both of his sons were sleeping in a room on the first floor. When he came out of his room and called his son, he spotted Arun Hooda while running from the room carrying sword like weapon in his right hand and revolver like weapon in his left hand. He jumped across the terrace and was being followed by two other persons namely Tarun @ Munna s/o Zorawar Hooda and other one he could not identify, who was wearing babanuma clothes. From the terrace he also spotted Zorawar's wife Saroj Hooda standing with a cloth tied on her head and was shouting that “**come after killing these brahmins**”. Meanwhile, he heard the cries of his son Rahul Bhardwaj and when he went there he saw a person dressed up like a monk with long hair was stabbing his son Rahul Bhardwaj with sword. At the time, Rahul Bhardwaj was standing near the wall defending himself. He caught hold said sadhu from behind and dropped on the floor. In the said struggle, he sustained hurt on right hand and right foot. Meanwhile, Rahul cried and told that they have committed murder of Ashutosh in other room. Then they locked said sadhu in bathroom and went to see Ashutosh, who was seen lying in a pool of blood in an unconscious state. On seeing this, when he shouted, his neighbour Dharmender attracted to the spot. He along with his son Rahul and Dharmender took Ashutosh in the car and rushed to General Hospital, Sector 6, Panchkula. Considering the condition of Ashutosh to be precarious, he was referred to PGI, Chandigarh where doctors declared his son dead. When he and Rahul were locking sadhu inside the bathroom, he told with his folded

hand that all these was planned by Saroj Hooda, R.D. Swami and Zorawar Hooda. In fact, he was called by Saroj Hooda and R.D. Swami to provide him a job in cattle farm (Gaushala) in Haridwar and on their command he committed crime. It has further been unfolded that his son has been killed due to old enmity by Arun Hooda @ Bholu, Tarun Hooda @ Monu on the command of their mother Saroj Hooda and R.D. Swami by trespassing inside his house by using guns and swords. They also caused hurt to him as well as his son Rahul. After the registration of FIR on the basis of aforesaid statement of Krishan Bhardwaj, investigation was put into motion.

3. Contention of learned counsel for petitioner is that petitioner has been falsely implicated in the instant case just to harass, humiliate and defame her otherwise, she is nothing to do with the alleged crime. Petitioner is in custody since May 27, 2014 and is lodged in Central Jail, Ambala. Petitioner as well as her entire family has been roped in in the instant case due to previous enmity. Moreover, petitioner has been arrested only on the disclosure statement of co-accused. Nothing has been recovered from the possession of petitioner connecting her with the alleged crime. No specific role has been attributed to petitioner. Though, challan has been presented against petitioner and her co-accused but completion of trial would take sufficient long time. The only allegation against petitioner is that she was standing with a cloth tied on her head and was shouting that "*come after killing these brahmins*". Apart from this, no other allegation has been attributed to her. Petitioner undertakes to abide by all the terms and conditions so imposed by this Court in

case she is granted the concession of bail.

4. On the other hand learned State counsel has strongly opposed the petition for bail submitting that there are serious and specific allegations against present petitioner that she conspired with other co-accused abetted them to commit the murder of Ashutosh and in pursuance thereof, her co-accused committed murder of Ashutosh and also caused injuries not only to his brother Rahul but also to their father. The trial is in progress and is likely to complete in the near future. As such, he does not deserve the concession of bail.

5. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the parties and has scrutinized the record.

6. A glance at the contents of FIR transpires that there exists an old enmity between the parties and that was the motive behind the occurrence as alleged by complainant. As per allegations, complainant witnessed the occurrence, in which, his son Ashutosh Bhardwaj was killed and other son Rahul Bhardwaj sustained injuries. It has been specifically stated by complainant that petitioner conspired with her co-accused, abetted the commission of offence. Moreover, trial is in progress and most of the witnesses have already been examined.

7. Though, during the course of arguments, learned counsel for petitioner intended to refer statement of complainant recorded during trial as well as that of Harvinder Singh, who was associated with investigating agency during the investigation but this Court is of the considered view that the Court is not required to scrutinize or

thoroughly examine the statements of prosecution witnesses while deciding the bail petition as it would tantamount to pre-judging the case, which may lead to cause prejudice to either of the parties to the proceedings but one thing is clear that complainant has fully reiterated the version while appearing in the witness box as PW-1, which was earlier made by him with the police, on the basis of which, present FIR was registered.

8. Taking into consideration the seriousness and gravity of offence, the mere fact that petitioner is in custody since May 27, 2014, does not entitle her to grant bail.

9. Taking into consideration the aforesaid aspects of the case, this Court does not find it a fit case to grant bail to petitioner. As such, petition is dismissed.

(JASPAL SINGH)
JUDGE

July 27, 2015
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