

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-41311 of 2015

DATE OF DECISION: 19.01.2016

Balwinder Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes/No)**
2. **To be referred to reporters or not? (Yes/No)**
3. **Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Manhar Saini, Advocate
for the petitioner.

Ms. Ritu Punj, Addl. A.G., Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 171 dated 17.11.2014 registered under Sections 376,313,304,120-B IPC at Police Station Mukerian, District Hoshiarpur.

Learned counsel for the petitioner submits that the petitioner was found innocent during investigation and there was no material on record to take cognizance of the offence against her. The petitioner has been summoned subsequently vide order dated 28.7.2015 to face trial along with other accused. She is a retired employee and has no connection with the alleged offence in any manner. No connecting

evidence was there before the Court to summon her but still the anticipatory bail of the petitioner has been dismissed. The petitioner is ready to join the Court proceedings. Nothing is to be recovered from her.

Notice of motion was issued in the case on 7.12.2015. Reply on behalf of State was filed on 19.12.2015. Thereafter, the case came up for hearing on 5.1.2016 and the following order was passed:-

“It has been mentioned in the affidavit filed by Deputy Superintendent of Police, Sub Division Mukerian, District Hoshiarpur that in the secret and open investigation conducted by him, it has come that Balwinder Kaur and Nishan Singh are residents of Shastri Nagar, P.S. Mukerian, District Hoshiarpur and they have not aborted deceased-Diksha.

On perusal of contents of FIR as well as order dated 24.11.2015, it is apparent that specific allegations are there against the petitioner and victim Diksha was taken to her house. Thereafter, her condition became worse. She was taken to various hospitals and ultimately, she died.

Reply filed by Deputy Superintendent of Police does not appear to be satisfactory as simply it has been stated that there was difference of age and it was a case of mistaken identity. Nothing was found against the petitioner. It has not been mentioned anywhere in the affidavit as to whether any other Balwinder Kaur is also there and, therefore, it is a case of mistaken identity.

Adjourned to 19.01.2016.

Deputy Superintendent of Police, Sub Division Mukerian, District Hoshiarpur is directed to file his affidavit to explain as to how it is a case of mistaken identity.”

In response to order passed by this Court on 5.1.2016, an affidavit of Deputy Superintendent of Police, Sub Division Mukerian, District Hoshiarpur has been filed in Court today and the same is taken on record.

As per allegations, the petitioner aborted the pregnancy of deceased-Diksha at the instance of main accused-Amrit Pal Singh, which resulted into her death. Deceased was taken to the house of the petitioner as she was working as Nurse where the condition of deceased became worse and she was taken to the other hospital and thereafter she was referred to a hospital at Jalandhar but she died on the way.

On perusal of allegations levelled in the FIR as well as other documents placed on file, the Court is not convinced to grant anticipatory bail to the petitioner. Since the petitioner has been summoned as an additional accused to face trial, let the petitioner surrender before the trial Court and in case she surrenders before the trial Court and moves an application for grant of regular bail, the trial Court is directed to decide the same within a period of one week from the date of filing of the application, in accordance with law.

Disposed of accordingly.

January 19, 2016
pooja

(DAYA CHAUDHARY)
JUDGE