

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10345-2018

Date of decision: - 10.05.2018

Parkash Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Anmol Partap Singh Mann, Advocate
for the petitioner.

Mr. Amitoj Singh Dhaliwal, DAG, Punjab

MAHABIR SINGH SINDHU, J. (ORAL)

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.115 dated 09.07.2017, registered under Sections 307 and 34 IPC (Section 302 IPC added later on), at Police Station Mukerian, District Hoshiarpur.

2. It is contended by learned counsel for the petitioner that bare reading of statement recorded under Section 164 Cr.P.C., no offence under Section 302 IPC is made out against the petitioner. It is further contended that an FIR No.64 dated 18.04.2017 under Section 354-A, B and D IPC was already registered by deceased-Anuradha against co-accused-Lovely @ Ravinder, who is at large and he has been declared as proclaimed offender in this case and due to harassment caused

by said Lovely @ Ravinder, she might have taken the extreme step of suicide. It is further submitted that the charges in this case were framed on 05.01.2018, but despite five consecutive dates no prosecution witness was present and thus, out of total twenty three witnesses, none has been examined till date and the petitioner is in custody since 08.08.2017.

3. The above factual position is duly acknowledged by learned State counsel on instructions from ASI Balbir Singh, however, he opposed the bail application on the ground that the allegations are very serious against the petitioner in view of the statement made by deceased on 09.07.2017 under Section 164 Cr.P.C. before learned Judicial Magistrate 1st Class, Mukerian and thereafter she died on 22.07.2017.

4. Heard learned counsel for the parties and perused the paper-book.

5. Perusal of the statement made under Section 164 Cr.P.C., which is reproduced in the FIR at page-13 of the paper-book, does not indicate that deceased was put on fire by anyone, including the petitioner and the only allegation is that all the accused together poured oil on her. Still further, the charges were framed on 05.01.2018 and the case was listed on five occasions before the learned trial Court i.e. 29.01.2018, 19.02.2018, 15.03.2018, 06.04.2018 and 27.04.2018, but admittedly no PW was present, for the reasons best known to the prosecution and the zimini orders read as under: -

“No PW is present. Adjournment requested. Now to come up on 19.02.2018 for prosecution evidence. PW's be also summoned for the date fixed.

Dated: - 29.01.2018

sd/- ASJ/Hoshiarpur

No PW is present. Adjournment requested. Now to come up on 15.03.2018 for prosecution evidence. PW's be also summoned for the date fixed.

Dated: - 19.02.2018

sd/- ASJ/Hoshiarpur

No PW is present. Adjournment requested. Now to come up on 06.04.2018 for prosecution evidence. PW's be also summoned for the date fixed.

Dated: - 15.03.2018

sd/- ASJ/Hoshiarpur

File put up before me as learned Presiding Officer is on leave today. No PW is present. Adjournment requested. Now to come up on 27.04.2018 for prosecution evidence. PW's be also summoned for the date fixed.

Dated: - 06.04.2018

sd/- ASJ/Hoshiarpur

File put up before me as learned Presiding Officer is on leave today. No PW is present. Adjournment requested. Now to come up on 17.05.2018 for prosecution evidence. PW's be also summoned for the date fixed.

Dated: - 27.04.2018

sd/- ASJ/Hoshiarpur”

6. In view of the fact that the petitioner is a female and she is in custody since 08.08.2017 and for the last five consecutive dates no prosecution witness was present and as such the trial is likely to take a long time to be concluded. Further, the occurrence in this case had taken place on 09.07.2017 and complainant-Anuradha died on 22.07.2018 due to “septicemic shock.” Therefore, in the above factual position, whether an offence under Section 302 IPC is made out or not, is a debatable issue and the same is the matter of evidence. Thus, no useful purpose would be served by keeping the petitioner behind the bars any more.

7. Therefore, in view of the abovesaid circumstances, without expressing any opinion on the merits of the case, the present petition is accepted. Petitioner-Parkash Kaur be admitted to bail on her furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court.

8. The above observations may not be construed as an expression of opinion on merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

May 10, 2018
naresh.k

Whether reportable?	Yes
Whether reasoned/speaking?	Yes