

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M No.17529 of 2018
Decided on: 02.05.2018**

Sumitra Bai @ Gogan

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Ms. Gumeet Babbar, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner in FIR No.151 dated 07.08.2013, for offence punishable under Sections 302 read with Section 34 of the Indian Penal Code (in short 'IPC') (challan presented under Section 306 IPC and later on, offence enhanced to Section 302 IPC) registered at Police Station Sadar Jalalabad, District Fazilka.

Counsel for the petitioner has submitted that the petitioner is a lady and initially the FIR was registered under Section 306 IPC and the petitioner was granted bail on 29.03.2014, after she remained in judicial lock up for a period of about 02 months. It is further submitted that the petitioner faced the trial for a period of 04 years and never misused the concession of bail. It is also submitted that later on, after recording the statement of certain witnesses, charges were amended on 04.01.2018 and thereafter, the petitioner was re-arrested on the same day and since then, the petitioner is in judicial lock up.

Counsel for the petitioner has further argued that the police, though, initially registered an FIR under Section 302 IPC, however, during the investigation, Section 302 IPC was deleted and challan was submitted under Section 306 IPC and, therefore, at this stage, while re-framing the charge under Section 302 IPC, it is yet to be decided whether the offence is punishable under Sections 302 IPC or 306 IPC, in view of the statement of PW3.

Counsel for the State has filed the Custody Certificate today in the Court and on instructions from ASI Gurnaib Singh, has not disputed the factual assertions but opposed the prayer for bail.

Without commenting anything on merits of the case and considering the fact that the petitioner remained on bail for a period of 04 years and has not misused the said concession and also in view of the fact that now charges have been altered and charge under Section 302 IPC has been framed and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is ordered to be released on bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

02.05.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No