

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

**CRM-M No.25404 of 2018
Decided on: 12.07.2018**

Manjit Kaur

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Amit Sharma, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.317 dated 09.09.2015, for offence punishable under Section 302 read with Section 34 of the Indian Penal Code (in short 'IPC'), registered at Police Station Basti Jodhewal, District Ludhiana.

Counsel for the petitioner has submitted that the FIR was registered against unknown persons on the statement of one Bhawani Prashad, before whom the petitioner has made an extra judicial confession. It is further submitted the co-accused of the petitioner namely Jaswant Singh @ Bunty has been granted the concession of regular bail vide order dated 22.02.2018 passed in CRM-M No.47141 of 2017, by passing the following order:-

“FIR came to be registered on the statement of Atul Kumar Aggarwal. Complainant asserted that his maternal aunt had lost her husband and was living alone in certain residential premises in Ludhiana. She was not having any

issue. Complainant also stated that even though he was living in Meerut but he used to visit his maternal aunt occasionally and who had confided him that a young punjabi man along with his wife used to reside as tenant in one room and had not paid the rent for a certain length of time. On 9.9.2015 complainant was informed by one Bhawani Parshad on telephone that room of his maternal aunt is lying locked for the last 3-4 days. Complainant having proceeded to Ludhiana noticed room of his aunt lying locked and foul smell emanating. The room having been opened body of maternal aunt of complainant namely Santosh Kumari was retrieved and which carried injuries inflicted by sharp edged weapon. Complainant alleged that his maternal aunt had been murdered by certain unknown persons.

Present petitioner has been roped in on the strength of a confessional statement that he is alleged to have made before Bhawani Parshad as regards a fight having taken place with Santosh Kumari on the issue of not paying rent and thereafter Manjit Kaur stated to be the wife of the present petitioner having held the arms of Santosh Kumari and the present petitioner having stabbed her with a knife.

Petitioner was arrested on 6.12.2015.

It is the contention raised by counsel that no cogent and conclusive evidence had been collected by the Investigating Agency to reflect the petitioner to be a tenant in the premises of the deceased or for that matter Manjit Kaur to be his wife.

Learned State counsel informs that in the trial that has ensued, out of 22 prosecution witnesses 6 have been examined till date.

Trial, as such, would take time to conclude.

The evidentiary value of the confessional statement alleged to have been made by the petitioner before

Bhawani Parshad would be an issue to be dealt with by the Trial Court.

Material witnesses i.e. complainant as also Bhawani Parshad PW-2 have already been examined before the Trial Court.

Keeping in view the length of incarceration already suffered by the petitioner and without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate concerned.

Petition disposed of.”

Counsel for the petitioner has further submitted that the petitioner is in judicial custody since 09.12.2015 and is not involved in any other case and out of 22 prosecution witnesses, only 04 PWs have been examined, so far.

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

Without commenting anything on merits of the case and considering the long custody of the petitioner, who is a lady, i.e. 02 years and 07 months and also in view of the fact that the petitioner was involved on the alleged extra judicial confession; only 04 PWs have been examined so far out of 22 prosecution witnesses; the co-accused of the petitioner has already been granted the concession of regular bail and conclusion of the trial will take some time, this petition is allowed and the petitioner is ordered to be released on bail subject to her 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 involved misusing the concession of bail, in any manner.

12.07.2018
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No