

S.No.215

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

CRM-M-31914 of 2018 (O&M)

Date of Decision:14.08.2018

Usha

.....Petitioner

Vs.

State of U.T. Chandigarh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Atul Prataap Dhankar, Advocate with
Mr. Bijender Dhankar, Advocate for the
petitioner.

Mr. Amit Chaudhary, Advocate for UT,
Chandigarh.

Rajbir Sehrawat, J.(Oral)

This is the second bail application filed by the petitioner under Section 439 Cr.P.C seeking bail pending trial in case FIR No.205 dated 29.06.2017 registered under Sections 307, 302 and 34 IPC at Police Station, Sector-31, Chandigarh.

Counsel for the petitioner submits that the deceased is the husband of the petitioner. It is contended by the counsel that admittedly, as per the case of the prosecution, it was a matter of matrimonial discord between the husband and wife. It is only out of that discord that this incident has arisen. The prosecution has tried to put out the story in a wrong manner putting the blame of murdering the husband upon the petitioner, whereas, such a case is not even borne out from the alleged last statement made by the deceased. In this regard, the learned counsel has

referred to the alleged dying declaration, attached at Annexure P.2, which

shows that the deceased was only locked into the bathroom by the petitioner, after, allegedly, spraying the inflammatory material upon his body. However, even as per that statement, there is no allegation that the petitioner did anything else to kill the deceased. It is further contended that the petitioner is in custody since 04th July, 2017 and the trial is likely to take long time for conclusion.

On the other hand, learned counsel for the Union Territory of Chandigarh, submits that the dying declaration has shown that the petitioner was present at the time of alleged incident. The allegation is also that she sprinkled the inflammatory material upon the deceased. It is also submitted that several witnesses have already been examined in the case.

Be that as it may, it appears to be a result of the matrimonial dispute between the husband and wife, which is alleged to be witnessed by the son of the couple. Even assuming the story to be as it is, the final act required for committing the murder, i.e., putting the deceased to flames is not even mentioned in the alleged dying declaration.

In view of the above, but without commenting any further opinion on the merits of the case, the present petition is allowed. It is ordered that the petitioner be released on bail pending trial on her furnishing bail bonds/ sureties to the satisfaction of the trial Court.

August 14, 2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No