

207

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

**CRM No.M- 47407 of 2017
Date of Decision: 18.01.2018**

Nisha

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HONBLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Jitender Dhanda, Advocate,
for the petitioner.

Mr. Munish Bansal, DAG, Haryana.

SUDIP AHLUWALIA J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure seeking regular bail in case FIR No. 326 dated 23.04.2016, registered under Sections 302, 452, 506, 120-B and 34 of the Indian Penal Code and 25 of Arms Act, at Police Station Hisar Sadar, District Hisar.

Petitioner-Nisha has been in detention since 25.05.2016. Although her on going trial is of the offence under Section 302 of the IPC, yet the allegations in the FIR as well as statement given by the complainant in Court (Annexure P-1) do not disclose any actual overt act of violence to the present petitioner, who is alleged to have followed her husband along with her mother to the complainant's house. The actual act of killing is directly linked to the petitioner's husband namely, Shiv Kumar who is already in custody. It may be mentioned that the Police had found the petitioner's mother as being not involved in the occurrence on account of which her name was not sent up in the challan and even a subsequent

application to summon her as an accused under Section 319 Cr. P.C. was also dismissed.

It has been contended on behalf of the petitioner that she has by now remained in detention since 25.05.2016 for almost one year and eight months. Her minor child of tender age is facing adverse consequences as he is also reported to be in jail along with the petitioner.

Her application for bail was rejected by the Ld. Sessions Court on 07.12.2017 (Annexure P-2), wherein it was observed inter alia that 'there are every possibility that the accused may influence the witnesses to depose in her favour'.

In the over all facts and circumstances and considering the limited role attributed to the petitioner in the occurrence, the long detention already undergone by her and the fact that she is a woman, this Court is not inclined to agree with the apprehension of the Ld. Sessions Judge to the effect that she would be in a position to pressurize or influence the prosecution witnesses without the real alleged culprit, who happen to be her husband, who still remains in jail.

In the circumstances, the petitioner, namely, Nisha w/o Shiv Kumar, is directed to be released on regular bail to the satisfaction of Ld. Trial Court/Duty Magistrate, Hisar, subject to imposition of any other precautionary terms and conditions as she may deem fit.

(SUDIP AHLUWALIA)
JUDGE

18.01.2018
 jyoti-3

Whether speaking/reasoned : Yes No

Whether Reportable : Yes No