

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-31952-2019 (O&M)

Date of Decision:- 5.9.2019

Shefali Bhasin @ Shefali Bhasin Tiwari

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Mr. Kshitij Sharma, Advocate for the complainant.

GURVINDER SINGH GILL, J.

1. The petitioner Shefali Bhasin @ Shefali Bhasin Tiwari seeks grant of regular bail in a case registered vide FIR No.461, dated 28.10.2018 under Sections 120-B, 302/34/201 IPC at Police Station DLF, Phase-I, Gurugram, District Gurugram.
2. The FIR was lodged at the instance of Hari Krishan, father of the deceased Deepika (daughter of complainant). The complainant alleged that his daughter Deepika was married to Vikram Chauhan in February, 2012 and had been blessed with two children. She was residing with her husband in Flat No.804, 8th floor, Tower 3 Valley View Estate, Gurugram. The complainant's son Himanshu Ahuja is also residing in the same 'Society'. On 27. 10.2018, he received a telephonic call from his son asking him to reach

their 'Society' as Deepika had fallen from 8th floor and had been taken to hospital by some other members of the 'Society'. The complainant reached hospital at about 3:30 A.M. on 28.10.2018 where he was informed by his son that complainant's daughter Deepika had expired. Upon enquiry, the complainant came to know that there had been a dispute between Deepika and her husband Vikram since the last about 6 months on account of an illicit relationship of Vikram with a lady named Shefali Tiwari, who was also resident of the same 'Society'. It is alleged that the said Shefali who was married was residing with her mother and her relationship with Vikram was also known to other members of the 'Society'. The complainant has further alleged therein that he had come to know that at the time of occurrence, Vikram and his elder brother Amit were present at the scene of crime and had been seen by another resident of the 'Society' namely Ms. Leena. It is, thus, alleged that Vikram and Shefali had conspired together to eliminate complainant's daughter Deepika.

3. Learned counsel for the petitioner has submitted that she has falsely been implicated in the present case merely on account of some suspicion of illicit relations of the petitioner with the husband of the deceased. It has further been submitted that in any case, even as per the FIR, the complainant was never present at the spot and it is Vikram and his brother who are stated to be seen at the spot. The learned counsel has further submitted that although during the course of investigation, the police claims to have laid its hands on some e-mail conversations, which allegedly suggest that the petitioner had been inciting Vikram to eliminate his wife but infact the authenticity of the said e-mails has not been established and there is no evidence to connect the

petitioner with said e-mails. The learned counsel, in this context, has referred to report under Section 173 Cr.P.C., annexed with the bail application, wherein in response to a query to Google company, it had been reported that the e-mail accounts had already been deleted much before arrest of petitioner in November, 2018. It has been submitted that the said report rather demolishes the stand of prosecution that it was pursuant to interrogation of petitioner that the police came to know about e-mails. The learned counsel has further submitted that in any case the petitioner being a lady and having a toddler in her lap, aged about 7 months, deserves special concession in the matter of grant of bail especially since investigation has already been concluded.

4. Opposing the petition, the learned State counsel assisted by learned counsel for the complainant has submitted that the evidence collected during the course of investigation clearly establishes the factum of illicit relationship between the petitioner and the husband of the deceased which furnished sufficient motive to the accused to eliminate Deepika. The learned State counsel has further pointed out that the e-mail conversations not only pointed out that the complainant had been telling co-accused Vikram i.e. husband of the deceased to kill the deceased but in one such e-mail conversation she has specifically stated that the deceased be thrown down from the balcony and which had exactly happened in the present case pointing towards complicity of the petitioner. It has further been submitted that it is the petitioner herself who during interrogation had disclosed about her password to her e-mail account with the help of which the police was able to access her e-mails. The learned State counsel has submitted that

since the petitioner is virtually a prime accused having a motive for elimination of Deepika, no ground for grant of bail is made out.

5. I have considered rival submissions addressed before this Court. A perusal of the FIR as well as the report under Section 173 Cr.P.C. and the evidence collected during the course of investigation by the police would *prima facie* suggest that the petitioner was having illicit relations with co-accused Vikram which could be said to be the motive for eliminating the deceased Deepika. Although, the e-mails referred to by the learned state counsel would tend to suggest the complicity and role of the petitioner especially as regards abetment of the crime but the admissibility of the said e-mails would be a matter of evidence as the source of authenticity of the same is yet to be fully established. In any case, the investigation has already been concluded and challan has already been presented and there is nothing on record to show that in case the petitioner, who is a lady, is released on bail there is any likelihood of tampering with the evidence or her threatening or intimidating the witnesses. Still further, sending the petitioner behind bars when she has a child aged about 7 months to take care of would rather be harsh for the child. Thus, while bearing the said facts in mind and adopting a humane approach, more particularly qua the infant, this Court is of the opinion that the petitioner can be extended the benefit of regular bail. The petition, as such, is accepted and it is ordered that petitioner Shefali Bhasin @ Shefali Bhasin Tiwari be released on regular bail on her furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

- 6. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.
- 7. The petition is accepted accordingly.

5.9.2019

kamal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No