

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-42653 of 2019

Date of Decision: October 04, 2019

Pooja	Petitioner
Vs.	
State of Haryana	Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.

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Present:- Mr.Ramesh Hooda, Advocate for the petitioner.

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MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 Cr.P.C. seeking pre arrest bail in case FIR No.303 dated 02.08.2019, under Sections 306 and 34 of IPC, 1860, registered at Police Station Badshahpur, District Gurugram.

It is contended on behalf of the petitioner that she has been falsely implicated in the present case as she was having very cordial relations with her husband (deceased) and as a matter of fact it is the complainant-Satish Kumar, being elder brother of the deceased, who is responsible for taking such an extreme step of suicide by the deceased. Also contends that parents of the petitioner have already been granted the benefit of interim protection by this Court on August 28, 2019 and she be also granted the similar concession.

Heard learned counsel for the petitioner and perused the paper-book.

As per the allegations of the prosecution, deceased was doing some private job in Gurugram for the last 8 years and married with the petitioner about 7 years back and both were residing there in a rented room along with their two minor daughters. Also alleged that petitioner used to pressurize the deceased to transfer his agriculture land in her favour and on account of this, generally there used to be a quarrel between them. Further allegation is that on 02.08.2019, mother of the complainant received a telephonic call from brother of the petitioner, namely, Krishan that Ashok (deceased) had committed suicide by hanging. Consequently, complainant along with some residents of the Village-Thiloar District Bhiwani reached to Police Station, Badshahpur (Gurugram) and informed the police that they did not find the dead body of Ashok in the rented room either hanging or lying and petitioner as well as her brother Krishan are responsible for the same.

A perusal of the FIR clearly reveals that there are specific allegations against the petitioner that when complainant along with other inhabitants of their Village reached at the place of occurrence, they did not find dead body of Ashok either hanging or lying in the room where deceased was residing with the petitioner as well as two minor daughters. Therefore, certainly a doubt is created as to whether it is a case of suicide or homicide? Moreover, even if it is a suicide, then also in view of provisions of Section 106 of the Evidence Act, 1872, it is the petitioner who is supposed to explain the

circumstance(s) leading to the commission of offence and that will require her custodial interrogation to find out the truth, as undisputedly, the death had taken place in the room where deceased was residing with the petitioner.

The contention of learned counsel for the petitioner that she was having cordial relations with her husband (deceased) is not acceptable for the reasons that as per averments made in para 5 of the petition, an FIR No.30 dated 01.02.2016 under Sections 323, 506 IPC, registered at Police Station, Badshahpur is stated to be pending, apart from proceedings under Section 125 Cr.P.C. for seeking maintenance on the ground that deceased was getting a monthly salary of Rs.14000/- as well as having six acres of agriculture land in his native village.

Also to be noticed that petitioner has now lodged an FIR No. 137 dated 17.09.2019 under Sections 323, 354, 376, 506 IPC at Police Station, Women Cell, Bhiwani, against complainant-Satish Kumar, alleging that he committed rape upon her prior to the present occurrence and even abetted the commission of suicide by the deceased, but it is not discernable as to why she kept mum till the registration of FIR No. 303 on 02.08.2019, under Section 306 IPC. Therefore, in the opinion of this Court, the petitioner is playing very smart and she does not deserve any concession of pre-arrest bail.

The argument that parents of the petitioner have been granted the interim protection by this Court is also not helpful for the

simple reason that interim concession in that case was extended only on account of the fact that they were residing in Village Dhanana, District Bhiwani, and the occurrence is alleged to have taken place at Gurugram; whereas petitioner was residing with the deceased in a rented accommodation at the place of occurrence along with deceased, thus, her case is entirely on a different footing.

In view of the facts and circumstances discussed hereinabove, this Court is left with no option except to dismiss the present petition.

Ordered accordingly.

However, it is made clear that above observations may not be construed as an expression of opinion on the merit of the case.

October 04, 2019
sanjay

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.