

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

**CRM-M-734 of 2020
Date of Decision:-05.02.2020**

Rajatpal Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Atul Goyal, Advocate
for the petitioner.

Mr. A.P.S. Gill, DAG, Punjab.

JASGURPREET SINGH PURI J.(Oral)

Petitioner-Rajatpal Kaur has filed the present petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.153 dated 07.7.2019, under Section 302 read with Section 34 IPC, registered at Police Station Salem Tabri, District Police Commissioneerate Ludhiana.

Learned counsel for the petitioner has argued that in the present case the petitioner is a married lady and is not residing at the place of occurrence, which is stated to be the place where the deceased had lived and that she had come to meet her father at that point of time when the alleged

scuffle took place between complainant and the accused. It is further stated that both the parties are neighbours and even as per the FIR itself the deceased after having a scuffle had fallen on the floor. It is further contended that it is not a case where specific injury is attributed to the petitioner but the deceased, who had retired, simply was heart patient and was celebrating his retirement party for a few days. It is further pointed out to the post mortem report, which has been annexed with the petition to show that even the seven injuries have been indicated which are only bruises at different places of the body but there is no injury by any weapon or whatsoever by any of the accused. He has further referred to the opinion of the doctor which stated the final cause of death is due to “cardio pulmonary arrest due to combined effect of chronic heart disease, congestion of lungs and liver and injuries as mentioned in PMR which are ante mortem in nature and sufficient to cause death in its ordinary cause of nature”. He has contended that the petitioner is a lady of 24 years and is in custody since 07.7.2019. He has further pleaded that even otherwise also the offence under Section 302 IPC would not be made out because it is a case where no motive has been attributed to the petitioner and therefore prayed for grant of regular bail.

Per contra learned State counsel on instructions from the investigating officer stated that there are seven injuries as per the MLR, although they are only bruises but could have been considered causing death of the deceased because the cause of the death was shown to be cardiac arrest, therefore, learned State counsel opposed the grant of regular bail to the petitioner.

I have heard learned counsel for the parties and perused the records.

A perusal of the MLR report and the opinions of the doctor as well as perusal of the FIR would itself show that it appears that probably it is a case where scuffle took place between the petitioner and the deceased. As per opinion of the doctor, the deceased was a cardiac patient and died by falling on the floor. It is of course a matter of evidence and nothing can be observed in this regard at the time of considering of bail application but the fact that a scuffle took place between both the parties and the deceased had died by falling on the floor and was suffering from heart disease is always a relevant factor for considering the bail application. Apart from that the petitioner being married daughter of neighbour of the deceased had allegedly come there fifteen minutes before the occurrence and nothing specific has been attributed to the petitioner except that she had dragged the deceased from inside the room.

In view of the totality of circumstances and the fact that petitioner is a lady and is in custody since 07.7.2019 coupled with the fact that the investigation is already complete as per statement made by learned State counsel and that the trial of the case is likely to consume considerable time and keeping in view the custodial period of the petitioner, her further custody may not be justified. Therefore, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to her furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court.

However, anything observed hereinabove shall not be treated

as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

The petition is allowed.

February 05, 2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

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