

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

(208)

CRM-M-16132-2020

Date of Decision: July 09, 2020

Toshal @ Vishal

.. Petitioner

Versus

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Daljeet Singh Virk, Advocate, for the petitioner.

Ms. Gaganpreet Kaur, Assistant Advocate General, Haryana.
(keeping in view the advance copy given).

Mr. Ajay Kumar, Advocate, for the complainant.

(presence marked through video conference).

HARSIMRAN SINGH SETHI, J.(ORAL)

The petition has been taken for hearing through video conference due to Covid-19 pandemic.

The present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in FIR No.0234 dated 06.09.2017, under Sections 306, 34 IPC registered at Police Station City Dabwali, District Sirsa.

Learned counsel for the petitioner states that as per the allegations, Sh. Bhagwan Dass in conspiracy with his wife Chander Kala and his elder son Toshal @ Vishal (now petitioner) prepared an obscene video and extracted Rs.30,42,000/- by threatening the deceased. Learned counsel for the petitioner further submits that both Sh. Bhagwan Dass as well as Chander Kala have been granted the concession of regular bail by this Court. Learned counsel for the petitioner further submits that Sh.

Bhagwan Dass was granted regular bail by this Court while deciding

CRM-M No. 40114 of 2019 on 12.12.2019 and Chander Kala was granted concession of regular bail by this Court while deciding CRM-M No.1632 of 2020 vide order dated 28.05.2020.

Learned counsel for the petitioner states that petitioner, who is similarly situated, as far as the allegations alleged, is also entitled for the concession of regular bail as extended to the co-accused.

Ms. Gaganpreet Kaur, Assistant Advocate General, Haryana, who has also joined the proceedings through video conference, keeping in view the service of advance copy of petition, submits that the allegations against the petitioner are of extracting money from the deceased by blackmailing him. Learned State counsel concedes that co-accused, against whom also similar allegations have been alleged, have already been granted regular bail by this Court.

Learned counsel for the complainant, who also appears through video conference, is unable to rebut the fact that co-accused namely Sh. Bhagwan Dass and Chander Kala have already been extended the benefit of regular bail by this Court.

I have heard learned counsel for the parties and have gone through the record.

The allegations were that Sh. Bhagwan Dass in connivance with his wife and son (now petitioner) extracted Rs.30,42,000/- by blackmailing the deceased. The allegation of extortion of money is against all the three accused namely Sh. Bhagwan Dass, Chander Kala and the petitioner. Once the similarly situated co-accused have already been extended the benefit of regular bail, petitioner also becomes entitled for the grant of regular bail, unless and until any differentiating fact between the

co-accused and the petitioner is pointed out.

In the present case, learned State counsel has conceded that there is no differentiating fact between the petitioner and other co-accused, who have been extended the concession of bail.

This Court while deciding CRM-M No.1632 of 2020 titled as Chander Kala Vs. State of Haryana, on 28.05.2020 has passed the following order granting bail to the co-accused. The same is as under:-

“The petitioner is seeking regular bail in FIR No.0234 dated 06.09.2017, under Sections 306/34 IPC, registered at Police Station City Dabwali, District Sirsa.

Learned counsel for the petitioner contends that the allegations against the petitioner are that she is stated to have made an obscene video of the deceased which compelled him to take the extreme step. The petitioner is 46 years old lady and co-accused Bhagwan Dass, who is her husband has already been granted the concession of regular bail by this Court in CRM-M40114-2019 on 12.12.2019. The petitioner is in custody for over 01 year and 04 months.

Learned State counsel states that the petitioner was the main accused and, therefore, she is not entitled to the concession of regular bail. She further states that although the challan has been filed but none of the 27 prosecution witnesses has been examined as yet.

Heard through video conferencing.

In view of the submissions of learned counsel for the petitioner, especially when the petitioner, who is a lady, is in custody for over 01 year and 04 months, co-accused has been granted bail, Covid 19 pandemic and the conclusion of the trial is likely to take some time, I deem it a fit case to grant the concession of regular bail to the petitioner.

Therefore, without expressing any opinion on the merits of the case, the petition is allowed. The petitioner is ordered to be released on regular bail on her furnishing requisite bonds

to the satisfaction of the trial Court/Duty Magistrate concerned.”

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not influence trial in any manner including influencing the witnesses and in case of default of the above undertaking, State will be at liberty to approach this Court for passing appropriate orders.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

July 09, 2020
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable: Yes