

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-10437 of 2021

Date of Decision: 10.03.2021

Hardeep Kaur

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. Manreet Singh Nagra, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

This is first petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.186 dated 28.09.2020 under Sections 307, 34, 201 IPC (302 IPC added later on) registered at Police Station Dharamkot, District Moga.

The aforesaid FIR was registered on the basis of complaint received on Police Helpline No.112 to the effect that some unknown person has buried the body of a new born baby in a manure heap in a vacant plot adjoining the house of Nirmal Singh in Village Fatehgarh Karotana. On

receipt of said information, the police reached at Village Fatehgarh Karotana, where Dilbagh Singh, Sarpanch was already present along with ambulance. In the presence of Sarpanch Dilbagh Singh, SI Major Singh recovered the said baby girl from the heap of manure and was handed over to the doctor, who took her to Moga for treatment. At that time, she was breathing. Initially, the said FIR was registered under Sections 307, 34, 201 IPC, but since the girl child died on 06.10.2020, therefore, offence under Section 302 IPC was also added.

Learned counsel for the petitioner has argued that the petitioner is herself a victim at the hands of her husband. On 28.09.2020, husband of the petitioner came to house and gave two tablets to the petitioner to consume. On consuming the same, the condition of the petitioner started deteriorating and when she went to washroom, she gave birth to second girl child. The husband of the petitioner took the girl child from the petitioner and left her lying in a pool of blood in the washroom itself. The petitioner was in pain, but there was nobody to look after her and take her to hospital. The petitioner somehow reached to her mobile phone and she called her father for help. He has referred to screen shots Annexure P-2 to support this contention. The father of the petitioner reached the house of in-laws of the petitioner at 1-00 pm and found the petitioner unconscious in a pool of blood. He took her to Sidhu Hospital, Ferozepur Road, Moga. The petitioner was not aware about the fate of the child, who was taken away by her husband. The petitioner after being discharged from GGS Medical College and Hospital, Faridkot, could not maintain her mental condition and was taken to Adesh Hospital, Bathinda

for psychiatric treatment. He has referred to medical certificate dated 24.10.2020 issued by Adesh Intitute of Medical Sciences and Research, Bathinda, wherein it has been certified that the petitioner was treated for Severe Depression with Urinary Tract Infection with Uterine Scar Dehiscence with Tinea Corporis, for which she requires regular treatment and follow up. Learned counsel for the petitioner submits that offence, if any, has been committed by the husband of the petitioner. He further submits that the petitioner is in custody since 09.11.2020 and since trial in the case is not likely to be concluded in near future, the petitioner be released on bail.

Learned State counsel does not dispute the custody of the petitioner. However, he has submitted that the petitioner was conscious of the fact that she was pregnant and since the foetus was of a girl child, the petitioner took the tablets in connivance with her husband so as to eliminate the foetus.

I have heard learned counsel for the parties.

The petitioner has levelled specific allegations against her husband that it is her husband who had given tablets to her, so as to eliminate the foetus of a girl child and after her birth, the new born baby child was taken away by her husband. Considering the fact that the medical certificate dated 24.10.2020 (Annexure P-4) issued by Adesh Institute of Medical Sciences and Research, Bathinda and the fact that the petitioner is in custody since 09.11.2020 coupled with the fact that culpability of the petitioner would be established during trial and trial in the case is not likely

to be concluded in near future, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of her bail bonds/surety bonds to the satisfaction of trial Court.

March 09, 2021
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(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No