

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

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**CRM-M-17467-2021
Date of decision: 20.05.2021**

Amarjit Kaur @ Bholi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Anterpreet Singh, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.34 dated 04.04.2019 registered under sections 201, 302 and 364 read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") in Police Station Hathur, District Ludhiana (Rural).

The above said FIR was registered on statement of Bhajan Singh. In his statement Bhajan Singh inter alia alleged that on 06.03.2019 his son Sony Singh left the house and telephonically informed him that he was going out of station due to business and would not come in the night. Sony Singh did not return for many days on which they started searching for him and lodged missing report No.19 dated 14.03.2019 in Police Station Hathur. His nephew Avtar Singh told him that Sony Singh met him on 06.03.2019 at about 07:30

P.M. near Bangran (Sath) Chowk and told him that he had love affair with Amarjit Kaur @ Bholi (the petitioner) who had called him to her house from whom he was also to take back amount borrowed by her from him. In view of the said information and from the enquiry conducted by him, he was sure that Amarjit Kaur @ Bholi (the petitioner), her husband Granthi Jaspal Singh and their elder son Jaswinder Singh @ Amna called his son Sony Singh at their house and killed him due to illicit relations of Sony Singh with Amarjit Kaur @ Bholi (the petitioner) and concealed his dead body. Pursuant to registration of FIR, the police investigated the case. During investigation, decomposed dead body was recovered from canal in the area of village Samalsar, District Moga which was cremated unidentified. The dead body was identified by the complainant from the photographs and remains to be that of his son Sony Singh despite the fact that in the post mortem report the dead body was stated to be that of a middle aged female. Sample of burnt bone sent to FSL, Punjab SAS Nagar (Mohali) was returned due to lack of requisite testing facility but the same was not sent to some other FSL by the Police. The petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi were alleged to have made extra-judicial confession before Harbans Singh, Sarpanch, Gram Panchayat Village Malha. The police arrested the petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi in the case and allegedly recovered T-shirt and the lower of deceased Sony Singh, electric wire and chunni from their possession in accordance with their disclosure statements and on completion of investigation charge-sheeted them.

The petitioner being in custody has filed the present petition for grant of regular bail.

The petition has been opposed by learned State Counsel. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. Initially missing DDR No.19 dated 14.03.2019 was lodged by the complainant with the police without naming anyone. The petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi have been falsely implicated in the case due to party faction in the village. Dead body of Sony Singh was not recovered. The dead body claimed by the complainant to be that of his son was mentioned in the post mortem report to be that of middle aged female. The sample of burnt ashes was not sent to FSL for DNA analysis for identification of the dead body. In the absence of recovery of dead body it could not be asserted that the petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi had murdered Sony Singh. Complainant Bhajan Singh has been examined in the case as PW-2 and he has not said anything against the petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi and turned hostile. Alleged planted recovery does not incriminate and there is no cogent direct or circumstantial evidence as to commission of the alleged offence by the petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi. There was no reason for the petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi to make

any extra-judicial confession and the evidence in this regard is manipulated. The trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Co-accused Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi have already been granted regular bail by this Court vide order dated 11.01.2021. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi murdered Sony Singh on account of his illicit relations with the petitioner. The petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi made extra-judicial confession before Harbans Singh, Sarpanch, Gram Panchayat Village Malha. Recovery of clothes of the deceased electric wire and chunni was made from possession of the petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi. The sample of burnt ashes was not sent for DNA analysis by mitochondrial analysis method as subsequently the members of the family of the complainant acknowledged that the dead body recovered was not that of Sony Singh. There is sufficient circumstantial evidence to prove commission of the subject offences by the petitioner, Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi. In view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the above referred facts and circumstances of the case, nature of accusation and evidence against the

petitioner, period of her custody and the fact that co-accused Jaswinder Singh @ Amna and Jaspal Singh @ Pala Granthi have been granted regular bail by this Court vide order dated 11.01.2021 coupled with the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case as the same may prejudice case of either of the parties, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.05.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No