

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

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CRM-M-23540-2021

Date of Decision : June 30, 2021

SONU

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI. J.

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.196 dated 14.5.2020 under Sections 323/302/307/452/506 IPC, Police Station Sampla, District Rohtak.

The present FIR came to be registered on the basis of information received on 14.5.2020 by the police that two women have been injured in Dev Colony, Sampla and on this information ASI Arvind alongwith HC Sunil reached the spot where it was found that the women who were injured were taken to CHC, Sampla. When the police party reached the hospital, two MLRs of two women namely, Ram Pyari and Sonia were handed over to the police party by the doctor. Ram Pyari was inflicted with two injuries. The doctor had recorded that Ram Pyari had two injuries for surgeon opinion and Sonia had total two injuries and the injured were referred to PGIMS, Rohtak. Thereafter the police party reached PGIMS, Rohtak where the doctor had written that the injured

Ram Pyari was unfit for giving statement and injured Sonia was fit for giving statement.

As per the prosecution, statement of Sonia was recorded by the police in which she stated that she is the daughter of Ram Pyari and that she had three brothers. two of her brothers lived in village Tikri, Delhi and one brother, namely, Ravinder lives in Nijhim, District Rohtak. Her father lives in Tikri with one of her brothers. The other injured, namely, Ram Pyari lives with her at Kheri, Sampla. She is married with one Jitender, who lives separately from her and she has one son and daughter. It was further stated by Sonia that on 13.5.2020 when she alongwith her children were sleeping in the room after dinner then her mother slept in the other room and at around 1.00 a.m. in the night, voice of Bachao-Bachao came from her room and when she went to the room, she heard the sound, a person was beating her mother and the person had caused many injuries to her mother in the head with an iron hammer in his hand with an intention to kill her and when she tried to get her mother released, the person gave a blow to her which hit her hand causing her phone to drop down. The person caused injuries to her in the head and her left eye with an iron hammer in his hand. He ran away from the spot and while running the person also threatened to kill them. Due to severe injuries, her mother fell on the ground and became unconscious and thereafter people from neighbourhood brought them to the hospital at Sampla for treatment from where they were referred to PGIMS, Rohtak. Sonia made a specific statement to the police that she can identify the person who had entered into house and had caused injures to her and her

mother with an intention to kill the latter.

The FIR was registered under Sections 323, 452, 307 and 506 IPC and during investigation the place of occurrence was inspected and site-plan of the crime scene was prepared and blood stained earth from the place of occurrence was taken and parcels were prepared and the same were taken into police possession. However, on 15.5.2020, during investigation and on the death of injured-Ram Pyari, Section 302 IPC was added. Thereafter, the statements of the witnesses were recorded from where it came to light that petitioner, namely, Sonu son of Vijay Singh had killed the lady and was arrested. From his possession a black coloured scooty was taken into police possession and on further interrogation petitioner (Sonu) got recorded his disclosure statement regarding the incident and according to the disclosure statement memo, the petitioner got recovered the hammer used in the crime from his old house in village Gijjhi. The accused also got demarcated the place of occurrence in the police custody and the demarcation memo was also prepared.

When the supplementary statement of Sonia was recorded on 15.5.2020, she specifically named petitioner (Sonu). She stated that in the intervening night of 13/14.5.2020, a boy had caused injuries to her and her mother Ram Pyari with a hammer and she had got registered a case by giving statement. At that time, she was scared and therefore she did not get her brother Sonu's name recorded and now she told the whole thing to her family members and the family members encouraged her and after which she told that her brother Sonu came home at Sampla and hit

her mother Ram Pyari in the head with a hammer and caused other injuries and when she intervened to rescue then her brother caused injuries to her also with a hammer and her mother became unconscious and she was also very scared and her brother ran away from the spot on the scooty from which he had come from. She specifically stated that her brother Sonu (petitioner) has caused injuries to her and her mother. The aforesaid statement of Sonia is appended with the present petition as Annexure P-3. Another witness, namely, Ravinder, who is the brother of Sonia also got his statement recorded that after the cremation of his mother when the family members were sitting together then suddenly his brother Sonu (petitioner) became nervous and when they talked him about the same, he confessed that he had committed this crime for the greed of land and after saying this he left from there and in this way, extra judicial confession was made by the petitioner. This witness also stated that the petitioner has caused this incident for the greed of land. The statement of Ravinder is also appended with the present petition as Annexure P-4.

Thereafter during the trial, both the aforesaid witnesses, namely, Sonia and Ravinder became hostile and their statements are appended with the present petition as Annexures P-5 and P-7 respectively. The statement of the father of Sonia, who is the husband of Ram Pyari was also recorded as PW2 by the learned trial Court vide Annexure P-6.

Learned counsel for the petitioner has submitted that it is a case where the petitioner was falsely implicated in the present case on the

basis of a supplementary statements made by Sonia and Ravinder, who are the sister and brother of the petitioner respectively. He submitted that at the time of lodging of the FIR, the sister of the petitioner, namely, Sonia did not mention his name although, she has mentioned that she can identify the culprit but it was only during her supplementary statement before the police that she has named the petitioner and on the basis of which he was arrested and is in custody since 16.5.2020. Learned counsel for the petitioner has primarily relied upon the statements of Sonia as well as of Ravinder which have been recorded by the learned trial Court at the time of the trial wherein both of them had turned hostile and, therefore, he has prayed for the grant of regular bail. Learned counsel argued that once both the witnesses have retracted from their statements and have turned hostile before the trial Court, the entire prosecution story gets demolished and, therefore, on this ground alone, he may be considered for the grant of bail. He further referred to Annexure P-8 which is the FSL report wherein it is stated that the sample of blood was of a human both on the swabs and Hathora (hammer) whereas the blood group on the same has been found to be inconclusive. He submitted that once the blood group is inconclusive, the petitioner cannot be connected with the stains of blood found on the hammer and on the swabs.

On the other hand, Mr. Panwar, learned DAG Haryana has opposed the grant of bail to the petitioner. He submitted that it is a case where the petitioner had committed a grave offence of murdering his own mother with an iron hammer by causing head injuries on the head by

which she was injured and ultimately succumbed to the injuries. He also caused injuries to his own sister, namely, Sonia. Learned State counsel has submitted that the plea of learned counsel for the petitioner that since both Sonia and Ravinder have turned hostile before the learned trial Court, he may be granted regular bail is totally unsustainable in view of the fact that it could not *per-se* become a ground for grant of regular bail. He submitted that it is a settled law that when a witness becomes hostile then merely because of the same, the evidence of the witness does not become inadmissible in evidence. The statement of a hostile witness is also to be considered in its totality at the time of appreciation of evidence by the learned trial Court. It is infact the totality of evidence which is to be considered at the time of decision of a case and turning hostile of a material witness would not *ipso-facto* be a ground for the grant of regular bail to the petitioner. He further submitted that as per Annexure P-8 which is the report of FSL, it has already been found that the origin of the blood both on the swabs as well as on the hammer was that of a human and that when in a case the weapon of offence was recovered on the basis of the disclosure statement of the accused and human blood was found on the swabs and hammer but the blood group did not match with the blood group of the accused and the accused does not give any explanation as to how human blood can be found on the weapon then the recovery cannot be disbelieved for failure to match the blood on the weapon with the blood of the deceased. He relied upon the judgment of the Hon'ble Supreme Court in **Jagroop Singh Vs. State of Punjab**, 2013(1) RCR (Criminal) 516.

Learned State counsel further submitted that the other witnesses are still to be examined and there is a strong apprehension that the petitioner may flee from justice and may also influence the remaining witnesses. He further submitted that the mere fact that two other witnesses have turned hostile would not mean that the prosecution story has been demolished and, therefore, there is no weight in the argument raised by the learned counsel for the petitioner.

I have heard learned counsels for the parties.

The custody period of the petitioner from 16.5.2020 is not in dispute. It is also not in dispute that the trial of the case has already commenced and some witnesses have been examined including Sonia, Ravinder and Vijay Singh, who are the daughter, son and husband of the deceased respectively. A perusal of the FIR would show that a boy had come at night at the house of two ladies, who are mother and daughter and the mother was injured on the head with an iron hammer and when the daughter wanted to rescue her, she was also hit on the head and was injured. Thereafter, the mother, namely, Ram Pyari unfortunately succumbed to the injuries. In the FIR, no doubt the name of the petitioner is not mentioned but it was during the supplementary statement suffered by Sonia daughter of Ram Pyari that she specifically named the petitioner and stated that the petitioner, who is her brother and son of Ram Pyari had come at night on that date and had struck her on her head with an iron hammer. She also stated that earlier she did not take his name because she was so scared and now when she told the entire incident to the family members then the family members encouraged her

and, therefore, she is now disclosing the name of the petitioner that in fact her own brother had come to kill her mother. Another statement was made by Ravinder, who is brother of Sonia and son of deceased Ram Pyari but lives at some other place, who stated in his statement before the police that the petitioner had made an extra judicial confession before him that he had killed his own mother for the greed of land. However, at the time of trial both Sonia and Ravinder have turned hostile. The husband of the deceased, namely, Vijay Singh was also examined before the trial Court. The argument raised by the learned counsel for the petitioner that since Sonia and Ravinder have turned hostile, he may be considered for the grant of bail would not sustain in view of the fact that by turning hostile of some material witnesses would not demolish the case of the prosecution at this stage. It is only a stage of trial and infact the entire trial is to commence and the trial Judge is to reach at the logical conclusion. The entire evidence is to be appreciated including the evidence pertaining to the statements of Sonia and Ravinder even if they have turned hostile. It is a settled law that not only the entire statement including the cross-examination of hostile witnesses is to be taken into consideration for appreciation but the other entire evidence is also to be taken into consideration for appreciation by the trial Judge and, therefore, the plea raised by learned counsel for the petitioner that the prosecution case has been demolished would not sustain at this stage. Furthermore as per the report of FSL, human blood was found on both the swabs and the hammer. It has also come on record in the police proceedings that even the earth where the blood stains were present was also taken into

possession by the police but there is nothing on record to show as to what was the report of that earth which was stained with blood. The argument raised by the learned State counsel that various other witnesses are still to be examined and there is a possibility of the petitioner indulging in influencing the remaining witnesses was very high would certainly carry weight. The apprehension of the State that the petitioner can also flee from justice also cannot be ignored at this stage.

It is a case where allegedly the petitioner had killed his own mother with an iron hammer for the greed of land. The seriousness and the gravity of the offence is of such a high magnitude that this Court does not deem it fit and proper to enlarge the petitioner on bail at this stage.

Therefore, without commenting anything on the merits of the case, this Court does not deem it fit and proper to grant regular bail to the petitioner and consequently the bail application of the petitioner is, hereby, dismissed.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

June 30, 2021
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(JASGURPREET SINGH PURI)
JUDGE

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