

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

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**CRM-M No.30735 of 2021
Date of decision:27.10.2021**

Geeta Sharma

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Suresh Ahlawat, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.981, dated 15.09.2019 registered for offence under Sections 302, 323, 34 (324 IPC was added lateron), 1860, at Police Station Sadar Gurugram.

As per the case of the prosecution, FIR, Annexure P-1, came to be registered on the statement of Sanjay, father of Sanjit (deceased) on the allegation that on 14.09.2019 at 08.00 PM, when his son alongwith Rahul and two other friends were standing on a vacant plot, Gulshan @ Pintu, his father Ramakant, mother Geeta (present petitioner) and brother Shubham @ Sonu came there, abused them without any reason, resulting in an altercation. Gulshan @ Pintu, who was carrying a knife in his hand, attacked Sanjit (deceased) and the other accused who were armed with sticks, attacked the friends of the deceased. On raising an alarm, people started gathering and the accused fled from the spot. Sanjit was

grievously injured and was admitted in a hospital, where he expired due to knife injuries.

Counsel for the petitioner contends that though the petitioner has been named as an accused in the FIR, there is no allegation against her of having attacked or causing injuries on the deceased. He submits that the petitioner is being roped in on the basis of statement of injured, namely, Krishna, Rahul and Abhishek, who have alleged that the petitioner was carrying a knife, which she handed to Gulshan and instigated him to attack, which fact is not in consonance to the allegation in the FIR. Counsel submits that co-accused Gulshan @ Pintu and his brother Shubham have been declared as juvenile and have been released on bail under the Juvenile Justice (Care and Protection of Children) Act, 2015. He submits that the first petition seeking grant of regular bail (CRM-M-29848-2020) filed by the petitioner was withdrawn on 28.05.2021 and thereafter co-accused, Ramakant, husband of the petitioner, surrendered on 02.07.2021 and supplementary challan against him has been presented. He asserts that the petitioner, who has clean antecedents and is no longer required for custodial interrogation as the investigation qua her is complete, challan has been presented, charge has been framed after the dismissal of the first petition, and she is entitled to be released on bail as she is in custody since 15.09.2019.

Per contra, learned State counsel upon instructions from ASI Hari Krishan has opposed the petition by referring to the status report filed by way of an affidavit of Assistant Commissioner of Police, Sadar, Gurugram. He urges that the fatal attack on the deceased was made by the son of the petitioner on her instigation and her role in the crime is

apparent. As per his instructions, challan against the petitioner has been presented on 10.12.2019, charge has been framed on 16.07.2021, but none of the 14 prosecution witnesses could be examined and the trial is fixed for 12.01.2022.

I have considered the respective submissions of the parties.

Keeping in view the facts and circumstances, this Court is of the view that the complicity of the petitioner in the homicide of Sanjit is debatable. Considering the fact that the petitioner is a lady of 40 years of age, who has suffered incarceration for the last more than 02 years and 01 month, and trial is likely to take time to conclude as the prosecution evidence is yet to start, this Court is, prima facie, of the view that the petitioner deserves to be released on bail during the pendency of the trial.

Without commenting upon the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

27.10.2021

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No