

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

209

CRM-M No.31170-2020 (O&M)

Date of decision:24.03.2021

Ompati

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. M.S.Dalal, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.159, dated 04.10.2019 registered under Sections 323, 34, 506 IPC (Sections 148, 149, 302 IPC were added later on) at Police Station Sadar, Kaithal,

FIR has been registered on the statement of Ajay, son of Ramesh, on the allegation that Balbir, husband of the petitioner, her sons, Rinku and Aman and her brother-in-law (Devar), Dalbir attacked, Gurmeet, brother of the complainant, who died as a consequence thereof.

Counsel for the petitioner has contended that the petitioner is a 49 years old housewife and neither she has been named in the FIR nor any injury has been attributed to her in the FIR. Counsel urges that the

alleged occurrence took place on 04.10.2019 and Gurmeet expired on 20.10.2019. It is his argument that the petitioner has been made an accused on the basis of a supplementary statement, Annexure P-2, of the complainant recorded on the same day, in which he alleged that when Bhalle Ram and Nirmala came to rescue his brother, petitioner-Ompati, Raj Kumar, Balbir and Ram Niwas caused injuries to them. He has referred to MLR, Annexures P-3 and P-4 of Bhalle Ram and Nirmala to submit that the injuries suffered by both of them are simple in nature and they were advised to get an X-ray done. However, they did not do so. Still further, it is his argument that during the course investigation, it has been found that other three co-accused, named in the supplementary statement, were innocent. He submits that the petitioner is in incarceration since 16.03.2020, investigation qua her is complete, challan has been presented and she is no longer required for custodial interrogation.

Opposing the petition, upon instructions from ASI Ram Niwas, State counsel does not dispute the factual position as argued by the counsel for the petitioner. He has made a reference to the affidavits dated 07.12.2020 and 12.01.2021 filed by the Deputy Superintendent of Police, Kaithal in response to the instant petition to submit that both Bhalle Ram and Nirmala, in their disclosure statements, Annexures R-4 and R-5, recorded under Section 161 Cr.P.C. named the petitioner. As per his instructions, challan against the petitioner has been presented on 28.05.2020, charge has been framed on 24.02.2021 and the trial is fixed for 26.03.2021 for recording of the prosecution evidence.

I have considered the rival submissions of the parties.

From the facts and circumstances enumerated above, it is debatable as to whether the petitioner is involved in the homicide of Gurmeet.

Considering the arguments of the counsel for the parties, period of incarceration of the petitioner which by now is more than one year, nature of allegations, gravity of offences, the fact that the petitioner is a middle-aged lady and the trial is likely to take time to conclude, no purpose would be served by keeping the petitioner behind bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

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

24.03.2021

pooja saini

(SUVIR SEHGAL)

JUDGE

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