

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46580 of 2021
Reserved on: 02.12.2021
Decided on 06.12.2021

Harwinder Kaur and anr.Petitioners

VERSUS

State of PunjabRespondent

CORAM : HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Preetinder Singh Ahluwalia, Advocate for the petitioners.

Mr. Harsimar Singh Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

The petitioners who are accused in an FIR No.129 dated 01.07.2021 (Annexure P-1) registered under Sections 302, 201, 364, 365 & 34 of Indian Penal Code at Police Station City Gurdaspur, Gurdaspur, have come up before this Court seeking regular bail under Sections 439 Cr.P.C.

2. On 01.07.2021, father of the deceased informed the police that his son was serving in GREF Department at Arunachal Pradesh. He stated that on 30.06.2021 his son told him that he would flying to Amritsar and from there he will reach home by bus. Then at about 12.47 am, his son on phone call, told him that he has arrived near Gurdwara Sahib and has been surrounded by some people who are suspecting him that he has come to Gurdwara Sahib during night hours for committing theft at which point call got disconnected and mobile was reportedly switched off. Subsequently, in the morning when complainant reached at the spot he found the dead body of his son at Dead House. He further added that he had come to know that his son was killed by Gurjit Singh, Harbhajan Singh and two un-identified persons. Based on this complaint, the police registered the FIR captioned above.

3. Status report by way of affidavit has been filed by the State which is taken on record. Learned State counsel has opposed the bail on merits.

4. In the investigation itself it was revealed that Gurjit Singh and Dalbir Singh had allegedly inflicted blows along with two un-identified persons. In the interrogation, Gurjit Singh, Mehardeep Singh (juvenile), Harjit Kaur, Darkirat Singh (juvenile) and Jaspinderpal Singh were nominated as accused vide Diary No.3 dated 07.07.2021. Subsequently, Daljit Singh was also arrested and one more person Jaspinderpal Singh was also arrested. In the interrogation the unknown person Vijay Kumar was nominated as accused in this case vide GD No.24 dated 12.07.2021, but during the investigation, Vijay Kumar was found to be innocent in this case vide GD No.55 dated 08.09.2021. The interrogation also revealed that petitioner No.1 brought a hockey stick from her house and handed it over to Darkirat Singh. Similarly, petitioner No.2 brought a rope and gave it to Harjit Kaur.

5. Learned counsel for the petitioners sought bail on the grounds that the petitioners are women.

6. The police report has already been filed in this case and preliminary investigation is complete. The role assigned to the petitioners is that they had handed over hockey stick and rope to the adult males. A perusal of the FIR reveals that there was no motive or prior enmity of the petitioners with the deceased. Unfortunately some of the accused mistook the deceased as a thief and as a result of this misconception in the heat of the moment, the petitioners handed over hockey and rope respectively to the adult males. It is very difficult to arrive at a conclusion at this stage that whether the petitioners who are women, would have been aware of the consequences of handing over hockey stick and rope to the other accused. Furthermore, the Cr.P.C. provides for a special provision with lenient view when women come for bail. Thus, in the entirety of the facts and circumstances of the case coupled with the fact that the petitioners have already been incarcerated around five months, they make out a case for bail at this stage.

7. Given above, the petitioners shall be released on bail in the FIR mentioned above, subject to furnishing a personal bond of Rs. Ten thousand (INR 10,000/-), and shall furnish one surety of Rs. Twenty-five thousand (INR 25,000/-), to the satisfaction of the Special Judge/Judicial Magistrate having the jurisdiction over the Police Station conducting the investigation, and in case of non-availability, any Ilaka Magistrate/duty Magistrate. Before accepting the sureties, the concerned Court must satisfy that in case the petitioner-accused fail to appear in Court, then such sureties are capable to

produce the petitioners-accused before the Court, keeping in mind the Jurisprudence behind the sureties, which is to secure the presence of the accused.

8. The furnishing of the personal bonds shall be deemed acceptance of the following and all other stipulations, terms, and conditions of this bail order.

9. The petitioners to execute a bond for attendance to the concerned Court(s). Once the trial begins, the petitioner shall not, in any manner, try to delay the proceedings, and undertakes to appear before the concerned Court and to attend the trial on each date, unless exempted. In case of an appeal, on this very bond, the petitioner also promise to appear before the higher Court in terms of Section 437-A CrPC.

10. The attesting officer shall, on the reverse page of personal bonds, mention the permanent address of the petitioner along with the phone number(s), WhatsApp number (if any), e-mail (if any), and details of personal bank account(s) (if available), and in case of any change, the petitioner shall immediately and not later than 30 days from such modification, intimate about the change of residential address and change of phone numbers, WhatsApp number, e-mail accounts, to the Police Station of this FIR to the concerned Court.

11. During the trial's pendency, if the petitioners repeat or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall continue to remain in force throughout the trial and after that in terms of Section 437-A of the CrPC.

12. Any Advocate for the petitioners and the Officer in whose presence the petitioners put signatures on personal bonds shall explain all conditions of this bail order, in vernacular and if not feasible, in Hindi.

13. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation per law.

14. Any observation made hereinabove is neither an expression of opinion on the merits of the case, nor shall the trial Court advert to these comments.

15. In return for the protection from incarceration, the Court believes that the petitioners-accused shall also reciprocate through desirable behavior.

16. *There would be no need for a certified copy of this order for furnishing bonds. Any Advocate for the petitioners can download this order along with the case status from the official web page of this Court and attest it to be a true copy. The Prosecutor shall also verify the downloaded copy by comparing it from the official web page. In case the attesting officer or the Court wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

17. In the facts and circumstances peculiar to this case, the petition is allowed in the terms mentioned above.

{ANOOP CHITKARA}
JUDGE

06.12.2021
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<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>