

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-47990-2021

DATE OF DECISION: NOVEMBER 23, 2021

GEETA @ GITA

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. YASHVEER KHARB, ADVOCATE FOR THE PETITIONER.
MR. BHUPENDER SINGH, DAG, HARYANA.
MR. SUNEEL RANGA, ADVOCATE FOR THE COMPLAINANT.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.677 dated 13.8.2020, under Section 346 IPC (Final report under Section 173 Cr.P.C. filed under Section 201, 302, 34 IPC), Police Station Old Industrial Panipat, District Panipat, who is in custody since her arrest on 30.3.2021.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Panipat, in the order dated 2.11.2021, are as under:-

“The facts of the bail application, in brief, are that complainant Sanjeev Kumar gave a complaint to the police stating therein that his younger brother Mukesh, aged 38 years, had gone somewhere from his shop on 12.8.2020 without telling anybody and did not return. He tried to search his brother but failed and hence on his application, formal FIR under section 346 of IPC was registered. Thereafter, on 14.8.2020, a dead body of one unknown person was found from the canal. It's postmortem was got conducted. The complainant

identified the said dead body, from his clothings, as of his brother. As per the report of postmortem, offence under sections 302, 201 of IPC was added and offence under section 346 of IPC was deleted. During investigation, the applicant-accused was arrested on 30.03.2021.”

Learned counsel for the petitioner has argued that at the first instance, complainant Sanjeev Kumar lodged a report regarding missing of his brother, namely, Mukesh who was missing since 12.8.2020 and when a decomposed dead body was recovered from a canal on 14.8.2020, the same was identified to be of brother of the complainant. He submits that the post mortem was conducted on 15.8.2020 and thereafter the dead body was cremated on 17.8.2020 and the identification by the relatives was done on the basis of photographs of the dead body. According to him, the initial description of Mukesh given by the complainant is at variance with the description of the dead body recovered by the police. He has further invited the attention of the Court to the order dated 28.10.2021 (Annexure P-6), passed by this Court in CRM-M-44110 of 2021, whereby the co-accused has already been released on regular bail. He prays for bail.

On the other hand, learned counsel for the State assisted by ASI Bansi Lal has opposed the aforesaid prayer and submitted that the identification of dead body was done on 3.9.2020 by the complainant who was shown the photographs. He submits that the investigation of the case is complete and the prosecution case is based upon circumstantial evidence. It is not disputed that the co-accused of the petitioner has already been released on bail.

Learned counsel for the complainant has argued that the

petitioner is the main accused as a sum of ₹2 lakhs advanced as loan to Mukesh by Surinder was not returned, therefore, these persons conspired to commit the above mentioned crime. According to him, the petitioner was instrumental, because at her insistence the loan was given to the brother of the complainant. However, it is not disputed by him that the dead body was not shown to the complainant or the other relatives and the identification was based upon photographs of the decomposed dead body.

Considering the above background and the fact that the co-accused of the petitioner has already been released on regular bail, this Court is of the opinion that further detention of the petitioner behind the bars may not be necessary for any useful purpose who is presently confined in judicial custody after her arrest on 30.3.2021, as the trial of the case is likely to consume considerable time to conclude. Further, the material witnesses are either close relatives of victim or police officials and presently there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner who is a lady be released on regular bail in the above case, subject to her furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

November 23, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No