

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

SR. No.220

CRM-M-7950-2022

Date of Decision:25.07.2022

Radha Rani

...Petitioner

Versus

State of Haryana

..Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr.Gaurav Mohuhta, Advocate,
for the petitioner.

Mr. N.S. Panwar, DAG, Haryana.

Mr. Paras Talwar, Advocate
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.229 dated 29.06.2021 under Sections 302/147/149/323/379-B/506/120-B of the Indian Penal Code, registered at Police Station Agroha, District Hisar.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody since 02.07.2021, which is more than one year. He further submitted that the petitioner is a lady of the age of 27 years and is having a 14 months old child with her in the jail itself. He further submitted that after completion of the investigation by the police, challan has already been presented before the learned trial court. He further submitted that the matter is at the trial stage and the only eye witness, namely Pardeep has been examined in chief. However, on the basis of the examination-in-chief, an application under Section 319 of the Code of

Criminal Procedure was moved by the prosecution for summoning of the remaining accused and therefore, the cross-examination has not been conducted. He further submitted that even as per the allegations contained in the FIR, the petitioner along with her brothers had gone to the fields and raised a lalkara and on the basis of alleged instigation, brothers of the petitioner attacked her husband and father-in-law. Consequently, father-in-law died. He further submitted that the only role attributable to the petitioner was raising of a lalkara and so far as other five co-accused are concerned, out of them, 04 co-accused have been exonerated by the police during the course of investigation, although one of the co-accused has not been arrested as yet and is absconding. He further submitted that thereafter an application under Section 319 Cr.P.C. was moved in order to summon those 05 co-accused to whom the role was attributed in the FIR itself and summoning order has been passed. He further submitted that in view of the aforesaid facts and circumstances and considering the fact that the petitioner is a lady of 27 years of age has faced incarceration for more than one year and now the trial is likely to be delayed in view of the fact that application under Section 319 Cr.P.C. has been allowed by the learned trial court and the case is kept for their appearance, therefore, the case of the petitioner may be considered for grant of regular bail. He also submitted that no recovery is to be effected from the petitioner and he has also taken up a plea on humanitarian grounds that a 14 months old child along with the petitioner is also staying in jail.

On the other hand, learned State counsel has submitted that it is correct that the petitioner is in custody since 02.07.2021 and now the only

eye-witness has been examined in chief and thereafter an application under Section 319 Cr.P.C. has been allowed by the learned trial court. He has opposed the grant of regular bail to the petitioner as the matter involves the death of the father-in-law of the petitioner. So far as the factum of 14 months old child staying with her mother in the jail is concerned, learned State counsel has not denied the same.

Learned counsel for the complainant has also opposed the grant of regular bail to the petitioner on the ground that it is a case of serious nature whereby the petitioner had committed the offence of murder of her own father-in-law.

I have heard the learned counsel for the parties.

On 11.05.2022, this Court had directed the learned trial Court to ensure that the complainant/eye-witness, namely, Pardeep was to be examined at the first instance and as expeditiously as possible and further directed the learned trial court to submit a report to this Court.

The report dated 02.07.2022 has been submitted by the learned Additional District & Sessions Judge, Hisar, wherein it has been mentioned that the complainant-Pardeep was examined on 27.05.2022 and after his examination-in-chief, an application under Section 319 Cr.P.C. was moved by the learned counsel for the complainant forwarded to the learned Public Prosecutor for summoning of 05 other persons as additional accused and the said application was allowed and they were summoned as additional accused. However the summons issued to the said accused have been received back unserved and they had been summoned again for 20.07.2022.

The petitioner is a lady of 27 years of age and admittedly

she has a 14 months' old child, who is also staying with her in jail. The investigation of the case has already been completed. The only eye-witness/complainant has been examined in chief and thereafter on application under Section 319 Cr.P.C., remaining 05 other co-accused have been summoned. As per the allegations contained in the FIR, the role assigned to the petitioner was that she raised a lalkara and on her instigation, the other co-accused had attacked her father-in-law resulting into his death. Out of the five other co-accused, four were exonerated by the police and one has not been arrested as yet. The fact that the petitioner, who is a lady of 27 years along with 14 months' old child in the jail itself and has faced incarceration for the last one year would be a relevant point for consideration of bail petition, apart from the other factors. Investigation of the case has already been completed and no recovery is to be effected from the petitioner. The role, as per the prosecution story assigned to the petitioner, was of instigating her brothers which caused death of a person and these four persons were exonerated by the police itself, although, now have been summoned under Section 319 of the Code of Criminal Procedure except one, who is absconding. Further, it is neither the case of the State nor it is argued by the State counsel that in case the petitioner is released on bail, then she may abscond or may influence any witness.

Therefore, considering the totality of the facts and circumstances of the present case, especially the fact that the petitioner is a lady of 27 years having a 14 months' old child with her in the jail for more than 01 year, this Court is of the considered opinion that the petitioner deserves the concession of regular bail. Consequently, the present petition

is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

25.07.2022
mks

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO