

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

CRM-M-10786-2022

Date of decision : 17.03.2022

Seema

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sandeep Parkash Chahar, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.328 dated 20.07.2021, under Sections 294, 302, 323, 34, 354-A, 506, 325 of the Indian Penal Code, 1860, registered at Police Station Meham, District Rohtak.

As per factual matrix of the case, the present FIR was lodged by the complainant-Poonam wife of Manjeet. It was alleged that on 20th July, 2021 at about 06:30 AM when she went to bring the milk and on the way Balram was standing who used some unparliamentary language for the complainant. As a result, an altercation ensued and on her resistance, they started giving beatings to her. She was rescued by the neighbours and on reaching home, she disclosed the happenings to her family members, on which, they went to lodge complaint with the family of the accused.

However, they were duly armed and instead of listening to the complainant

side, they opened attack on them. They were holding sticks, batons and axe in their hands. The neighbours took the injured to the PGIMS, Rohtak. The FIR was lodged initially under Sections 354-A, 506, 294, 323, 34 of IPC. The request was made to take the legal action against the culprits. However, on 06.08.2021, the injured Vedpal died in hospital and the FIR culminated into Section 302 IPC. Finally, the investigation commenced and the petitioner was arrested on 07.08.2021. Petitioner approached the Court of learned Additional Sessions Judge, Rohtak for the grant of bail, however, after hearing counsel for the parties, the same was declined vide order dated 18.11.2021. Aggrieved by the same, petitioner has approached this Court for grant of regular bail.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He submits that the petitioner is a lady of about 40 years of age. He submits that during investigation, the statement of the complainant was recorded under Section 164 Cr.P.C. on 23.07.2021 as well. He has submitted that the petitioner was not even named in that statement. He has submitted that even otherwise the investigating agency has shown the petitioner to be armed with *danda* and hence, the role which is attributed in the whole scene is her presence and thus, liable for the offence with the aid of Section 34 of IPC. He has submitted that the challan has been presented against three accused i.e. the petitioner, her husband and her minor son, who being juvenile, has already been granted bail. He has submitted that the deceased was 75 years of age and he died after about 16 days of the occurrence and there is no role attributed to the petitioner except her presence. Even otherwise, he has submitted that in the facts and circumstances of the present case, whether

the case falls under Section 302 of IPC i.e. culpable homicide amounting to murder or under Section 304 Part I or Part II of IPC culpable homicide not amounting to murder or any other offence, is a serious debatable issue. Even otherwise no opinion for the cause of death has been given so far. He submits that in the facts and circumstances, the petitioner deserves to be granted bail.

On the other hand, learned State counsel on instructions from ASI Sanjay has submitted that name of the petitioner is duly found mentioned in the FIR. He submits that in the initial version in all, there were eight accused. However, the challan was presented against three of them. He also submits that it has been established during investigation that petitioner was armed with *danda* and the recovery of the *danda* is also effected from the petitioner.

I have heard counsel for the parties and perused the record.

The occurrence in question took place on 20th July, 2021. The deceased was 75 years of age and he died in the hospital on 20th July, 2021 and thereafter, the offence under Section 302 IPC was added. The name of the petitioner though finds mention in the FIR, however, during investigation, she was found to be armed with danda and the recovery of the same has been effected. The arguments raised regarding her complicity and whether the present offence falls under the category of culpable homicide amounting to murder or culpable homicide not amounting to murder or in any other offence would be totally a subject matter of the trial Court to be evaluated by it on the conclusion of trial. The trial of the case will take sufficiently long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. However, at this stage, in the

overall facts and circumstances of the case, I find that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

17.03.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No