

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18077-2021

Date of Decision: 12.10.2022

Jaswinder Kaur

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. K.S. Sidhu, Advocate, for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 41 dated 31.05.2019, under Section 302 IPC (Section 120-B IPC deleted later on), registered at Police Station Sadar Rajpura, District Patiala.

Learned counsel for the petitioner has submitted that the petitioner is a lady of the age of about 40 years and she has faced incarceration for about 2 years and 5 months which has been calculated after including the period of interim bail which was granted to her by this Court. He submitted that after the interim bail was vacated, she was directed to surrender before the jail authorities and she has surrendered within time and has not violated any of the conditions of interim bail. He further submitted that it is a case where the allegations against the petitioner were that there was a matrimonial discord between the petitioner and her husband and many times fight had also taken place and on the fateful day allegedly the petitioner had killed her own

husband. The FIR was lodged on the basis of complaint of the mother-in-law of the petitioner. The trial has also commenced and out of total 25 cited witnesses, 22 witnesses have already been examined which included the complainant and all the material witnesses. He submitted that it is not a case that where any recovery is to be effected from the petitioner but the trial has taken long time with the result petitioner has faced incarceration for long period of time which is about 2 years and 5 months.

The learned counsel has also submitted that the petitioner has two minor children who are twins, out of them one of the aforesaid twin boy is a mentally retarded boy to the extent of 80% and his approximate age is 11 years and he is now living with his grand-mother. He submitted that it has practically become not only difficult but also impossible to take care of the child by the grand-mother and even at the time when the petitioner was granted interim bail by this Court, the petitioner had rather lived alongwith the complainant who is her mother-in-law in an amicable manner and considering the aforesaid facts and circumstances coupled with the facts that the petitioner who is a lady has already faced incarceration for 2 years and 5 months and, therefore, she may be considered for the grant of regular bail.

On the other hand, Mr. Amit Rana, learned Senior Deputy Advocate General, Punjab has submitted that it is correct that the petitioner is in custody for 2 years and 5 months including the period of interim bail. He submitted that it is also correct that during the interim bail the petitioner has not violated any of the conditions of the bail and her conduct was also good. He further submitted that it is also correct that the petitioner has got two minor children who are twins and one of them is 80% mentally retarded child who is now living with the complainant who is the mother-in-law of the petitioner. He

further submitted that the petitioner is not a habitual offender and is not involved in any other case. He has however stated that now the trial is at the fag end since 22 out of 25 witnesses have already been examined.

I have heard the learned counsel for the parties.

As per the learned counsel for the parties, the petitioner has faced incarceration for 2 years and 5 months and all the material witnesses have already been examined. No recovery is to be effected from the petitioner. It is not in dispute that the petitioner who is a lady of the age of 40 years has two minor children who are twins and one of them is 80% mentally retarded.

After taking into consideration the long custody of the petitioner, this Court cannot ignore the fact that even on humanitarian grounds the practical difficulties of handling a mentally retarded child cannot be ignored and would certainly weigh in the mind of the Court while considering the grant of regular bail to the petitioner.

This Court is of the view that considering the aforesaid facts and circumstances where the petitioner who is a lady of the age of 40 years has already faced incarceration for 2 years 5 months and all the material witnesses have already been examined and apart from the same, it is not the case of the State counsel that in case the petitioner is released on bail, then she may abscond or may influence any witness.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

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.

12.10.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No