

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

CRM-M-26112-2022 (O&M)
Date of Decision:- 4.7.2022

Pinki ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Sunil Kumar, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana

GURVINDER SINGH GILL, J.

1. This is the third petition filed on behalf of the petitioner seeking grant of regular bail in a case registered against her vide FIR No.0094 dated 22.3.2020 at Police Station Industrial Sector 29, Panipat, Haryana under Section 302 of Indian Penal Code.
2. The complainant Anil lodged the aforesaid FIR alleging therein that his brother Durgesh was working on a machine in Paliwal Abhitext Factory. On 21.3.2020 while he was going for his work to the factory, then somebody due to personal enmity, murdered his brother with the help of a knife.
3. It may here be mentioned that although the FIR was lodged on 22.3.2020, but subsequently the complainant got a supplementary statement recorded on 22.5.2020 wherein he stated that marriage of his brother Durgesh was solemnized in the year 2019 with Pinki. However, the complainant and other members of his family later came to know that Pinki was having a love affair

with Dushyant, who was not happy with Pinki's marriage. It is alleged that Dushyant had even threatened the complainant over the telephone and that the petitioner strongly suspects that his brother Durgesh has been murdered by Dushyant while conspiring with his friends Vishal and Parveen.

4. It has been submitted by learned counsel for the petitioner that the petitioner is nowhere named in the FIR or in the supplementary statement and that there is not even an iota of reliable evidence against her so as to justify her further detention behind bars. It has further been submitted that infact the prosecution while moving an application dated 31.8.2020 (Annexure P-8) seeking direction for conducting polygraph test upon the petitioner had stated therein that no conceivable evidence was there against Smt. Pinki i.e. the petitioner.
5. The learned State counsel, while opposing the petition, has submitted that the evidence collected by the police shows that she was having an extra marital affair with co-accused Dushyant. It has been submitted that the call details record collected by the police shows that a large number of calls had been exchanged between the petitioner and Dushyant and infact the exchange of calls was there even before the marriage of the petitioner. Learned State counsel has informed that the record pertaining to the calls made during the period 1.9.2019 to 16.3.2020 had been collected and which shows that as many as 900 calls have been exchanged between the petitioner and Dushyant, necessarily indicating that they were having an affair furnishing a motive to eliminate the deceased. The learned State counsel has clarified that when the application dated 31.8.2020 (Annexure P-8) seeking direction for conducting polygraph test upon the petitioner had been moved,

the investigating agency had not laid its hand on the call details record and that in any case if any wrong averment has been made by the investigating officer in an application, the same cannot be taken to be an admission of innocence of the petitioner, particularly when there is other evidence to indicate that the petitioner and Dushyant were having an affair. The learned State counsel has further submitted that the petitioner in her disclosure statement has specifically stated that on 17.3.2020, she initially made a call to her husband and thereafter to Dushyant through the mobile phone of her father so as to inform Dushyant about the location of her husband and which also clearly shows the involvement of the petitioner.

6. I have considered rival submissions addressed before this Court.
7. It is no doubt a case based mainly on circumstantial evidence inasmuch as there is no eye-witness to the alleged murder of the deceased. However, the police during investigation has collected sufficient evidence showing the complicity of the petitioner inasmuch as she was found to be having an affair with Dushyant and who both had conspired to eliminate the petitioner's husband. The very fact that a large number of telephone calls had been exchanged between the petitioner and Dushyant clearly points out towards the extra marital affair that the petitioner was having with Dushyant. In any case, this Court has already dismissed a petition for grant of bail filed previously vide a detailed order dated 7.9.2021 (Annexure P-2). There has been no substantial change in circumstances so as to justify grant of bail.
8. The petition, as such, is found to be sans merit and is hereby dismissed.

9. The prosecution is, however, directed to ensure that all the prosecution witnesses are duly produced before the Court on the dates as may be fixed for recording their statements so that there is no delay in conclusion of trial.

4.7.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No