

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

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CRM-M-26602-2022
Date of decision: 07.07.2022

SUNITA

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Lalit Kumar Narang, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G. Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.833 dated 25.11.2021 registered under Section 306 read with Section 34/342 of the Indian Penal Code, 1860 (Section 342 of the IPC was added later on) at Police Station City Rohtak, District Rohtak.

2. Learned counsel appearing on behalf of the petitioner makes a reference to the FIR that has been registered at the instance of the complainant Ajay Kumar who has alleged that his brother Sandeep was working as Halwai and had certain money transactions with one Rajender son of Sh. Dei Ram. Sandeep, Rajender, Sunita wife of Rajender (petitioner herein) and certain other financiers were allegedly

putting undue pressure by demanding money from his brother Sandeep due to which he was upset. On 24.11.2021, Rajender son of Dei Ram had taken his brother Sandeep by calling him from his house and that he did not reach back. On 25.11.2021 at about 12:00 noon, an information was received that Sandeep had died at the house of Rajender and his dead body was found there.

3. Learned counsel appearing on behalf of the petitioner contends that the petitioner has been roped in as an accused only because she happens to be married to Rajender with whom certain transactions had taken place. It is contended that the petitioner has no role of any nature whatsoever and that even as per the concluded investigation, there is nothing on record to suggest that any amount had been advanced by the petitioner or that she had pressurised the deceased into repayment of any amount so advanced. He further contends that the ingredients under Section 107 IPC are necessary in order to make out an offence of instigation are not made out. He further contends that the petitioner has been in custody for approximately 07 months. Investigation is complete and further custodial interrogation is not warranted for conclusion of investigation. The charges have been framed and evidence has not yet commenced.

4. Learned counsel appearing on behalf of the respondent-State submits that the deceased had committed suicide by hanging with the help of a chunni of the petitioner and it is thus apparent that she had participated in the commission of the offence. He further submits that the body of Sandeep was recovered from the house of the petitioner and her husband Rajender and as such, the onus lies upon them to

explain the circumstances under which the incident in question had occurred.

5. The afore-said submission advanced by the learned State counsel is controverted by the counsel appearing on behalf of the petitioner by averring that there can be no presumption of commission of offence after investigation is already concluded and the prosecution is required to establish the definite role attributed to the petitioner as would satisfy the ingredients of Section 306 read with Section 107 of the IPC. It is further urged by the petitioner that in the absence of any material that would substantiate that the petitioner had aided or abetted/instigated the deceased in the commission of the offence, merely because the deceased had used a property/cloth belonging to the petitioner in commission of the offence would not fastened any liability against the petitioner. He further contends that petitioner is a woman aged 52 years and it would be incomprehensible that she would indulge in any such activity.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their able assistance.

7. Taking into account, the fact that the petitioner is a woman aged 52 years and has already been in custody for approximately 07 months and the fact that stage of trial along with clean antecedents as well as the disputed question being raised with respect to aiding/abetment on the part of the petitioner in the commission of the present offence, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

8. The instant petition is allowed and the petitioner is ordered to be released on bail on her furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

9 It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

10. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 07, 2022
vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No