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

CRM-M-26639-2022 (O&M)
Date of decision : 28.10.2022

Sukhwinder Kaur @ Sukhi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Satwant Mehta, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.42 dated 05.03.2022 registered under Sections 302/201 of Indian Penal Code, 1860 (Section 120-B of IPC has been added later on) and Section 25 of the Arms Act, 1959 at Police Station Chheharta, District Police Commissionerate, Amritsar.

Learned counsel for the petitioner has submitted that the petitioner is a 42 year old widow and has never been involved in any criminal case and is in custody since 06.03.2022 and investigation qua her is complete and challan has been presented and there are 18 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time. It is further submitted that the

petitioner was not named in the FIR and FIR was got registered by Kulwant Kaur, who was well known to the present petitioner. It is contended that as per FIR, the said Kulwant Kaur was an eye-witness of the alleged occurrence and had specifically stated that when she and her husband Gurdeep Singh (deceased) were about to pass the house of Gurbakhsh Singh @ Lalla (son of the petitioner), then Gurbakhsh Singh @ Lalla was standing on the road and on seeing the complainant and her husband, he raised lalkara that they had been warned not to enter the village and had taken out a pistol from his internal pocket and had shot two bullets into the chest of complainant's husband and had picked up the fallen empties from the ground and fled along with pistol. It is further contended that the complainant had given the details of the entire occurrence in the FIR but had not stated that the present petitioner was also present at the time of the occurrence or that the present petitioner had any role to play in the same. It is argued that on the basis of supplementary statement of the complainant dated 06.03.2022, the complainant has implicated the present petitioner and has stated that when the complainant and her husband were a little behind the house of Gurbakhsh Singh @ Lalla, then, it is the present petitioner who had brought a pistol from the house and had handed over the same to her son namely Gurbakhsh Singh @ Lalla and had told the said Gurbakhsh Singh @ Lalla that he should shoot the husband of the complainant. It is further argued that a joint reading of the said two statements, would clearly show that the petitioner has been falsely implicated and the following points, in the said regard, have been highlighted:-

1. The complainant was an eye-witness to the alleged occurrence and

knew the petitioner as well as her son on account of old enmity but had not named the present petitioner in the FIR which was registered on 05.03.2022.

2. In the FIR, it has been specifically stated that Gurbakhsh Singh @ Lalla had taken out a pistol from his internal pocket and there was no reference of the pistol being handed over by the present petitioner to Gurbakhsh Singh @ Lalla.
3. It is submitted that even in case, the supplementary statement dated 06.03.2022 is taken on its face value, then also, it is unimaginable as to how, when the complainant and her husband had not even reached the house of Gurbakhsh Singh @ Lalla, the complainant was able to see or know that the present petitioner had handed over the pistol to her son.
4. In the FIR, it has been stated that on seeing the complainant and her husband, the son of the petitioner namely Gurbakhsh Singh @ Lalla had raised lalkara and there is no mention of any lalkara being raised by the present petitioner and in case, any such lalkara was raised by the present petitioner and was heard by the complainant, then the same would have been mentioned in the FIR itself.
5. It is submitted that even as per the said supplementary statement, it is not the petitioner who had fired at the husband of the complainant and no injury has been caused by the petitioner to the deceased or to any person.

On the basis of the abovesaid facts, the petitioner has prayed for grant of concession of regular bail.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that the petitioner has been specifically named in the supplementary statement dated 06.03.2022 made by the complainant and it has been stated in the said supplementary statement that the complainant, being under shock, forget to mention this at the time of the registration of the FIR, that when the complainant and her husband (deceased) were at some distance from the house of Gurbakhsh Singh @ Lalla, the present petitioner had brought a pistol from the house and had handed over the same to her son. It is submitted that in the said facts and circumstances, the petitioner does not deserve the concession of regular bail.

This Court has heard learned counsel for the parties and has perused the paper book.

In the present case, the petitioner is a widow and is stated to be not involved in any criminal case other than the present case. The petitioner is in custody since 06.03.2022 and investigation qua her is complete and challan has been presented and out of 18 prosecution witnesses, none have been examined as yet and thus, the conclusion of trial is likely to take time. The complainant-Kulwant Kaur is known to the present petitioner as well as son of the petitioner, as it is apparent from the reading of the FIR and the supplementary statement made by the complainant, that there was an old enmity between the parties. The said Kulwant Kaur was an eye-witness of the occurrence and had given the details of the entire occurrence, on the basis of which, the present FIR had been registered on 05.03.2022. In the said FIR, the petitioner was not named and it was not even remotely stated

that the present petitioner was present at the spot or had any role to play in the occurrence. It has been specifically stated in the FIR that when the complainant and her husband were about to pass the house of Gurbakhsh Singh @ Lalla (son of the petitioner), then Gurbakhsh Singh @ Lalla was standing on the road and on seeing both of them, he raised lalkara that they had been warned not to enter the village and that they would not be spared and accordingly, he had pulled out a pistol from his internal pocket and had shot two bullets in the chest of the husband of the complainant. The relevant portion of the FIR is reproduced hereunder:-

“Today, my husband Gurdeep Singh and I are passing on foot through village Kale when it was about 11:45 AM and was about to pass the house of Gurbaksh Singh @ Lalla then Gurbaksh Singh @Lalla was standing on the road who on seeing us raised a Lalkara that you were warned not to enter the village, today I won't leave you alive and he pulled a pistol out of his internal pocket (Dab) and shot two bullets in the chest of my husband. My husband fell down on the ground and Gurbaksh Singh @Lalla picked up the fallen empties from the ground and ran away with the pistol from the spot. My husband was throbbing while lying on the ground and I could not find any help to shift him to hospital and he died on the spot. This whole incident has happened before my eyes. Then I called my youngest son Sukhbir Singh on the spot. I left my husband's body with my son Sukhbir Singh and came to inform you.”

On 06.03.2022, the complainant got recorded her supplementary statement and it is on the basis of the said supplementary statement, that the petitioner has been nominated as an accused. Even as per the said supplementary statement, no allegations of any firing or causing

any injury have been attributed to the present petitioner.

Learned counsel for the petitioner has raised several arguments in order to show that there are contradictions in the FIR and in the supplementary statement and the same has been noticed hereinabove. The question as to whether the petitioner was involved in the present occurrence or not, would be finally adjudicated during the course of the trial.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to her not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

28.10.2022

Pawan

**(VIKAS BAHL)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**