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

**CRM-M No.36073 of 2022
Date of Decision: 23.08.2022**

KULDEEP KAUR @ AMNI

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in her 3rd attempt in case bearing FIR No.0013 dated 26.01.2018 registered under Sections 302, 201, 120-B IPC at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib. Earlier CRM-M No.16213 of 2020 was got dismissed as withdrawn on 18.09.2020 and thereafter petitioner remained unsuccessful in CRM-M No.44551 of 2021 decided on 03.11.2021 as well.

FIR was registered at the instance of Jaswant Singh

brother of the deceased husband of the petitioner. As per allegations, the petitioner had developed illicit relations with co-accused Sikander Singh @ Gori @ Bunty. Petitioner was warned by the family members on many occasions, but she did not mend her ways. Sikander Singh @ Gori @ Bunty kept on visiting the house of the petitioner in the absence of Basant Singh i.e. deceased husband of the petitioner.

FIR in question was lodged on the basis of last seen version dated 15.01.2018, when Basant Singh went to the house of complainant Jaswant Singh and at about 12:30 PM, the complainant saw that Sikander Singh @ Gori @ Bunty, Gaggi @ Gand and Chanchal Singh etc. had come on a motorcycle in the house of Basant Singh. They had a talk with the petitioner. After some time, petitioner called Basant Singh through a message and after some time, Sikander Singh @ Gori @ Bunty and aforesaid persons took Basant Singh (deceased husband of the petitioner) on their motorcycle. Basant Singh did not return thereafter. FIR was lodged on 26.01.2018 on the basis of last seen version dated 15.01.2018, when dead body of Basant Singh was recovered. Complainant identified the dead body of Basant Singh on 26.01.2018 in the hospital.

On 27.01.2018, statement of one Baljit Singh was recorded by the police, wherein he stated that Gagandeep Singh @ Gaggi @ Gand had inflicted Sua (ice pickle) blow on

the person of deceased Basant Singh.

As per postmortem report of deceased Basant Singh, no punctured wound was found on his person. Total 11 injuries were found. All the injuries were found to be lacerated wounds. The cause of death was "*cerebral damage consequent upon blunt force impact to the head of the deceased*", which was sufficient to cause death in ordinary course of nature.

Learned counsel for the petitioner submits that the prosecution story is totally based on circumstantial evidence on the theory of last seen version. The FIR was belatedly lodged. Even earlier to the lodging of the present FIR, a complaint was lodged by the petitioner in the form of missing report dated 16.01.2018.

Learned counsel further submits that the petitioner is in custody since 30.01.2018 i.e. for about 4 years, 6 months and 22 days as on 22.08.2022. Out of total 38 prosecution witnesses, only 14 witnesses have been examined so far. The material witnesses including Dr. Navroj Goyal have been examined.

Learned counsel further submits that co-accused Sikander Singh @ Gori @ Bunt and Gagandeep Singh @ Gaggi @ Gand have been granted concession of regular bail by this Court vide orders dated 20.07.2022 and 02.03.2020 passed in CRM-M No.12748 of 2022 and CRM-M No.36005 of 2019

respectively.

On the other hand, learned State counsel opposed the bail on the ground that the petitioner is the main accused. She in connivance with her paramour i.e. Sikander Singh @ Gori @ Bunty has killed Basant Singh. The delay in lodging the FIR has already been explained. Five prosecution witnesses have been given up.

Having considered the submissions on *prima facie* note, I find that the complicity of the petitioner on the basis of circumstantial evidence would remain debatable and would be tested by the trial Court on the basis of quality of evidence to be brought on record by the parties. Petitioner is in custody since 30.01.2018. The trial has not made any significant progress even from the date when regular bails were granted to the co-accused on 02.03.2020 and 20.07.2022.

At this stage, keeping in view the custody of the petitioner and other *prima facie* material on record, I deem it appropriate to enlarge the petitioner on regular bail, without meaning anything on the merits of the case.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to her furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to

be an expression of opinion on merits of the case.

August 23, 2022	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No