

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36340-2022
Decided on : 24.08.2022

Balbir Kaur @ Beero

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. A.K.Singla, Advocate
for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

This is the second petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.121 dated 02.05.2021 under Sections 365 IPC (Sections 201, 302 and 34 IPC added later on) registered at Police Station Model Town District Panipat.

On a pointed query put to learned counsel as to what was the material change in circumstances subsequent to the withdrawal of previous petition on 27.10.2021, he submits that both the material witnesses i.e. complainant (mother of the deceased) and grandmother of the deceased stand examined. Learned counsel while drawing the attention of this Court to the FIR in question (Annexure P-1) submits that both these material witnesses failed to support the case of prosecution as a result of which they were declared hostile.

Learned counsel further submits that the case of the prosecution

rests on circumstantial evidence and on the face of it, it is a case of false implication inasmuch as there was no witness of last seen coupled with the fact that the body of the deceased was recovered from a canal after four days of her going missing. Learned counsel while drawing the attention of this Court to the contents of the FIR (Annexure P-1) submits that only missing report was lodged but no suspicion was raised against anyone much less against the petitioner, who also happens to be the paternal aunt of the deceased. Learned counsel still further submits that thereafter the complainant made a supplementary statement under Section 161 Cr.PC wherein for the first time she raised some suspicion about the involvement of the accused including the petitioner in the disappearance of her daughter and her subsequent drowning in the canal. Learned counsel submits that since the petitioner, who is a lady, has now been in custody for more than a year having been arrested on 06.05.2021 and both the material witnesses having been declared hostile during trial, her further incarceration would serve no useful purpose and hence, she be extended the concession of bail.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite, on instructions has not been able to controvert the factual aspect of the submissions made by counsel for the petitioner qua the petitioner not being named initially in the FIR in question and she being named only subsequently in the supplementary statement recorded after a couple of days of the lodging of the FIR. He has also not been able to dispute the factum of it being a case of circumstantial evidence and there being no witness of last seen. Learned State counsel has conceded that both the material witnesses were declared hostile during trial as they

did not support the case of the prosecution. He further submits that the next date of hearing before the trial Court is 05.09.2022 when some more prosecution witnesses are likely to be examined.

Heard learned counsel for the parties and perused the relevant material on record.

In the facts and circumstances as enumerated hereinabove particularly when both the material witnesses i.e. complainant (mother) and grandmother of the deceased have failed to support the case of the prosecution and were declared hostile coupled with the fact that 27 witnesses remain to be examined, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

24.08.2022
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No