

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Criminal Misc.-M No.46098 of 2021  
Date of Decision: February 14, 2022

Mainawati @ Birmati

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr.A.S.Khosa, Advocate,  
for the petitioner.

Mr.Bhupender Singh, DAG, Haryana.

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**MANOJ BAJAJ, J. (Oral)**

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.386 dated 30.05.2021, under Sections 302, 201, 34 and 120-B IPC, 1860, registered at Police Station, Sadar Hisar, District Hisar, who is in custody since her arrest on 31.05.2021.

The contents of the FIR, as noticed by the Additional Sessions Judge-cum-Judge Special Court for Heinous Crime Against Women, Hisar in her order dated 27.09.2021 while dismissing the bail application of the petitioner, read as under:-

*“3. Prosecution case is that on 30.05.2021, Krishna Devi daughter of Balbir Singh, wife of Krishan Kumar resident of village Daulatpur along with her husband and other family members came to police station and presented a complaint to the effect that her father died 2 years ago. Her brother Jaibir died five years back. Her mother Shanti Devi along with her*

*sister-in-law Mainawati w/o Jaibir and her children was living in village Jakhod Khera. In the morning of 27.5.2021, she received a call regarding death of her mother. Thereafter, she along with her husband reached there. Dead body of her mother was lying on the cot and there were injury marks on her neck. Ladies present there were saying that she has been killed. At this she became unconscious. Her husband took her to a doctor in village Daulatpur. There she gained conscious after 2 days. Naresh, son of her paternal aunt, told her that Mainawati was talking to one Ranjit to cremate her mother at the earliest so that no one came to know that they have killed her. Hearing their conversation, Naresh took photographs of dead body of her mother. Naresh disclosed it to Kanha Ram who also took photographs from his mobile. On making inquiry, she came to know that Mainawati was not a lady of good character and Ranjit used to visit her. They both killed her mother. Mainawati's father Pusa Ram, her mother and brother Rajesh cremated her mother in order to cover up the offence. She requested that legal action be taken against them."*

Learned counsel for the petitioner has argued that complainant Krishna is her sister-in-law, who has falsely implicated the petitioner for allegedly causing death of her mother, namely, Shanti Devi, who was residing with the petitioner. According to him, the son of the deceased, namely, Jaibir had already expired five years ago and the petitioner had been taking care of the mother-in-law and except for the bald statement of the complainant, which is hearsay in nature, there is no other evidence to suggest the commission of alleged crime, much less post mortem report to *prima-facie* show the death of victim as homicidal. He further submits that the alleged occurrence took place on 27.05.2021, whereas the FIR was lodged after a delay of four days on 30.05.2021 and by that time, the

cremation of the dead body had already taken place. He prays for bail.

On the other hand, learned State counsel, who is assisted by ASI Rajesh Kumar, does not dispute this fact that the prosecution case is based upon the statement of complainant Krishna and another witness Krishan, wherein they have mentioned that when they visited the house of the victim, they noticed strangulation marks around her neck. It is not disputed by the learned counsel that the complaint was given by the complainant only on 30.05.2021. According to him, the investigation of the case is complete as the final report was filed on 27.08.2021, but charges are yet to be framed and the case is coming up for the said purpose before the trial court on 15.02.2023.

After hearing the learned counsel for the parties, considering the above background and the custody of the petitioner, this court is of the opinion that the possibility of conclusion of trial in near future does not seem to be probable. Admittedly, the material witnesses are either the complainant or the police officials and at present there does not seem to be any possibility of their being won over, therefore, the further detention of the petitioner behind the bars would not serve any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to her furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Hisar.

**February 14, 2022**  
**ramesh**

**( MANOJ BAJAJ )**  
**JUDGE**

**Whether speaking/reasoned**  
**Whether Reportable:**

**Yes/No**  
**Yes/No**