

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(212)

CRM-M-37619-2019

Date of decision:- 07.02.2022

Sunita Begum

... Petitioner

Versus

The State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vinod Ghai, Senior Advocate with
Ms. Kanika Ahuja, Advocate and
Mr. Edward Augustine George, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab for the respondent-State.

Mr. H.P.S.Sandhu, Advocate for the complainant.

SUVIR SEHGAL, J. (ORAL)

Heard through video conferencing.

By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, the petitioner is seeking grant of regular bail in FIR No.107 dated 06.12.2018 registered for offence under Section 365 of the Indian Penal Code, 1860, at Police Station Ghanaur, District Patiala, Annexure P-1.

As per the version of the prosecution, FIR, Annexure P-1, has been registered on the statement of Sohil Khan son of Nasurdeen on the allegation that his younger son, Mannan, aged about six years, who is studying in a primary class, is missing since 05.12.2018 from a marriage party in Anaj Mandi, Ghanaur, where he along with other children of the area, was last seen eating an ice-cream at about 04:00 P.M. Despite extensive search in the area, he could not be found and it is suspected that some unknown person has enticed him. During investigation, a beheaded

body of the child was recovered from a canal on 21.12.2018, which was identified by the complainant to be that of his son, and the petitioner was arrested on 01.01.2019.

Learned senior counsel appearing for the petitioner contends that the petitioner has been falsely framed and there is no material with the prosecution to connect the petitioner with the alleged crime. He urges that the case of the prosecution is based on circumstantial evidence and an extra judicial confession. He urges that the petitioner is no longer required in custody as not only the investigation is complete, but substantial evidence has already been led by the prosecution, therefore, she deserves to be released on bail. He submits that co-accused, Avineesh Kumar @ Kala, is in custody and his petition for grant of bail has been withdrawn from this Court.

Per contra, learned State counsel, upon instructions from, ASI, Sher Singh, and by referring to the three different status reports filed over the period of time, has submitted that the petitioner had a grudge against the father of the complainant as he was instrumental in getting her house demolished. He submits that the petitioner entered into a conspiracy with Avineesh Kumar @ Kala with whom she had an extra marital affair and he enticed the young boy, strangled him and threw his body in a canal. He submits that Mustaq Ali, PW-4, in his testimony has stated that he saw the child in the company of Avineesh Kumar @ Kala at the ice-cream stall at 04:00 P.M. on the day he went missing. Still further, he submits that extra-judicial confession had been made by both the accused before Rahul. Reference has also been made by the State counsel to the evidence of the complainant and his father, Nasurdeen, who

have been examined as PW-2 and PW-5, respectively. He submits that the piece of cloth used to suffocate the boy was found to have been taken from the shop where Avineesh Kumar @ Kala works. He urges that keeping in view the nature of allegations and gravity of offence, the petitioner does not deserve to be granted the concession of regular bail.

Having considered the facts and circumstances of the case, but without examining the arguments addressed by the counsel for the parties, this Court is prima facie of the view that the material collected by the prosecution would remain debatable. The petitioner, who is a young lady of 35 years of age and has been in custody for the last more than three years and one month, would be entitled to be enlarged on bail, as all the material witnesses have been examined and the trial is likely to take time to conclude.

Petition is allowed.

The petitioner, namely, Sunita Begum, is ordered to be released on bail on her furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

07.02.2022

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No