

210

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

Date of decision: 21.03.2022

1. CRM-M No.39353 of 2019 (O&M)

Savitri Devi @ Shanti Devi

....Petitioner

Versus

State of Haryana

....Respondent

2. CRM-M No.17029 of 2020 (O&M)

Rai Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Gurinder Pal Singh, Advocate
for the petitioner (in CRM-M-39353-2019)

Mr. Hemant Bassi, Advocate
for the petitioner (in CRM-M-17029-2020)

Mr. Deepak Grewal, DAG, Haryana.

Mr. Aditya Sanghi, Advocate for the complainant.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in these petitions is for grant of regular bail to the petitioners namely Savitri Devi @ Shanti Devi and Rai Singh, under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.169 dated 26.05.2019, for offence punishable under Sections 302, 201, 34 of the Indian Penal Code, 1860 (in short 'IPC') registered at Police Station Rania, District Sirsa.

Counsel for the petitioners has argued that both the petitioners i.e. Savitri Devi @ Shanti Devi and Rai Singh, are the mother-in-law and father-in-law of the deceased Mamta and they have

undergone the substantive custody of 02 years and 09 months. It is further submitted that the statement of main witness, who is the grandson of the petitioners and son of the deceased has already recorded before the trial Court and there is no possibility for the petitioners to extend any threat to the prosecution witnesses as only official witnesses remain to be examined.

Counsel for the petitioner has also submitted that as per the allegations in the FIR, registered at the instance of Parveen Kumar, it is stated that his sister Mamta was married to Sandeep Kumar and after the marriage, there was a demand of dowry. It is further stated that a son namely Karan, was born to his sister, who was aged about 06 years on the date of incident and again some gifts were given at the time of his birth but there was continuous demand of dowry. It is also alleged that even Panchayat was convened but the accused did not mend their ways. On 26.05.2019, he received a phone call from Laxman, the elder brother of Rai Singh that Mamta has been killed by her in-laws and thereafter, they reached her house and found that Mamta was lying dead on the bed and there was an injury mark around her neck and the blood was frozen. The FIR was registered against the husband of the deceased and the present petitioners, who are the parents-in-law.

Counsel for the petitioner has further submitted that the petitioner – Rai Singh is on constant treatment for psychiatric illness and has relied upon the medical report dated 11.12.2020 filed along with the affidavit of the Superintendent (Prisons), Sirsa, wherein it is held that the petitioner is continuously under treatment and remain admitted in Psychiatric Ward of PGIMS, Rohtak.

Counsel for the petitioner – Savitri Devi @ Shanti Devi, mother-in-law of the deceased Mamta, has argued that the role attributed to both the petitioners is that they were causing harassment to Mamta (since deceased), however, no written complaint was ever given to the police during the intervening period from 20.02.2011 when the marriage took place till her death on 26.05.2019 and except for the oral allegations, there is no evidence to support the same. It is further submitted that the other allegations against the petitioners are that they have tried to destroy the evidence i.e. bangles worn by the deceased as well as the fact that Karan, the minor son of Mamta i.e. grandson of the present petitioners, who was aged about 07 years heard that all the 03 accused were talking to each other to murder Mamta and this fact was not brought to notice of the investigating agency and only after an application was moved under Section 311 Cr.P.C. by the prosecution, the statement of Karan was recorded under Section 161 Cr.P.C. and later on, his statement as PW-1 was also recorded before the trial Court.

Counsel for the petitioners have referred to the statement of PW-1 wherein he has stated that in the evening, his father, grandfather and grandmother were talking that today Mamta will be murdered by way of strangulation and thereafter, he went towards his mother, who was preparing food in the kitchen but he did not disclosed the said conversation as her grandmother was also present there. Thereafter, he went to sleep and in the morning, when he woke up, he found the planks of the door of the bedroom of his mother closed and thereafter, he peeked into the room through window and found his mother lying on bed. Thereafter, he went inside the room and there was a mark of black colour on the neck of his mother.

Counsel for the petitioners have further submitted that both the petitioners are suffering from age related health problems and have undergone substantive custody of about 02 years and 09 months and there is no possibility of tampering with the prosecution evidence. It is also argued that the allegations of demand of dowry, if any, are against the husband of the deceased namely Sandeep Kumar.

Counsel for the State on the basis of the Custody Certificate and on the basis of the affidavit of the Investigating Officer has argued that during the investigation, the statement of Sandeep Kumar was recorded in which he has stated that after sometime of his marriage, he became suspicious about the character of his wife and both of them used to fight over the same and also informed this fact to the other family members. It is further stated that on the intervening night of 25/26.05.2019, he went to sleep and send his son to sleep with his parents i.e. the present petitioners and again, at night, he had an argument with his wife over her character and he pressed her neck with his hands and also gave kick blows on her body and murdered her.

Counsel for the complainant has, however, submitted that both the petitioners in conspiracy with their son i.e. the husband of the deceased has committed the murder and have even tried to destroy the evidence and therefore, they are not entitled to bail.

Counsel for the complainant has also argued that in case the petitioners are granted the concession of regular bail, there is every possibility that they may try to forcibly take the custody of minor grandson and it will not be in the interest of upbringing of the minor child, who is living in custody of his maternal uncle namely Parveen Kumar.

After hearing the counsel for the parties, considering the fact that the petitioner Savitri Devi @ Shanti Devi is aged about 48 years and the petitioner Rai Singh is aged about 50 years and as per the Certificate issued by the Medical Officer, the petitioner – Rai Singh is suffering from Psychiatric illness and also in view of the fact that both the petitioners are in long custody of about 02 years and 09 months; the statement of the child witness has already been recorded; the custodial interrogation of the petitioners is not required and the conclusion of the trial will take some time due to COVID-19 situation, I deem it appropriate to grant the concession of bail to the petitioners. Accordingly, both these petitions are allowed and the petitioners namely Savitri Devi @ Shanti Devi and Rai Singh, are directed to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it is clarified that both the petitioners will not visit the village where the minor Karan is residing, in any manner and will not try to meet him at any place like school, playgrounds, etc., failing which it will be open for the prosecution to apply for cancellation of bail of the petitioners.

The observations made in this order are only for the purpose of deciding the bail applications and will have no bearing on merits of the case.

A photocopy of this order be placed on the file of other connected case.

21.03.2022

yakub

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No