

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

CRM-M-42689-2019 (O&M)
Date of Decision:- 25.2.2022

Savita ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Akashdeep Singh, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana
assisted by SI Harender.

GURVINDER SINGH GILL, J.

1. The petitioner - Savita has approached this Court seeking grant of regular bail in a case registered vide FIR No. 236 dated 8.8.2018 under Sections 186, 333, 353, 302, 307/120-B/34 IPC, Sections 25, 29-A, 54, 59 of the Arms Act, 1959 and Section 3(2)(v) of the S.C./S.T. Act at Police Station Arya Nagar, District Rohtak.
2. The FIR pertaining to honour killing of juvenile Mamta and a police official namely SI Narender was lodged at the instance of Constable Sushila wherein she has alleged that on 8.8.2018, she along with SI Narender came to the Rohtak Courts from Nari Niketan, Karnal for the purpose of producing juvenile Mamta before the Juvenile Justice Board. After producing Mamta before the Juvenile Justice Board when she was coming out of the Courts alongwith the juvenile and when Saroj and her son namely Dinesh were also

accompanying them, the father (adoptive father) of Mamta signalled to two boys standing there that Mamta is his daughter. When the complainant and others reached near the road at a short distance from the Courts, then the aforesaid two boys came on a black coloured motorcycle out of whom one was wearing helmet. It is alleged that the person sitting on the pillion seat started indiscriminate firing upon Mamta. The complainant and SI Narender tried to rescue her but the assailants fired at them as well. While Narender sustained bullet injuries, the complainant was not hit. Saroj and Dinesh who were also present alongwith them at that time also escaped unhurt. SI Narender, who had been injured due to firearm injuries, succumbed to his injuries.

3. Some undisputed facts are that the petitioner Savita and her husband Ramkesh are biological parents of Mamta who had been given in adoption to Ramesh and Krishna. The said Ramesh and Krishna were otherwise also related to Mamta, being her *Fuffar* (uncle) and *Bua* (aunt).
4. It is further the case of prosecution that Mamta had run away with a boy namely Sumin, who belongs to some other caste and on account of which the members of the family of Mamta felt embarrassed and had planned to kill her and that the petitioner, being the biological mother of Mamta, was also a conspirator.
5. The learned counsel for the petitioner has submitted that once she had given away Mamta in adoption, she had no domain over her and she would not have much to do with the conduct of Mamta much less feel embarrassed by her conduct, as is alleged by the prosecution. It has further been submitted that in any case, even as per the FIR it is two young boys who had fired at

Mamta and others leading to death of Mamta and SI Narender and that the petitioner has been nominated on the basis of an alleged disclosure statement made by co-accused Ramesh (Annexure P-7) regarding petitioner being a conspirator which would hardly carry any evidentiary value. The learned counsel has further submitted that since some other co-accused namely Sombir, Vikas and Mohan Dass, who have also been roped in with the aid of Section 120-B IPC, have already been granted bail by the trial Court, therefore, the petitioner deserves the same concession on the grounds of parity.

6. On the other hand, the learned State counsel while opposing the petition has submitted that since the petitioner, who is biological mother of Mamta and the adoptive parents of Mamta to whom Mamta had been given in adoption are closely related, it cannot be said that the petitioner had nothing to do with the conduct of Mamta. The learned State counsel has submitted that the petitioner and other co-accused, upon feeling that their 'honour' had been compromised by Mamta on account of her having an alliance with a Balmiki boy, had chosen to eliminate her and that such like conduct is absolutely unpardonable. It has been submitted that co-accused Ramesh Kumar, in his disclosure statement, has clearly stated that the petitioner was amongst the conspirators who had hatched a plan to get Mamta killed. The learned State Counsel has submitted that since the petitioner is involved in one of the most deprecated crime of 'honour killing' of her own daughter, there is no room for any kind of leniency. It has also been submitted that it is a case of double murder which absolutely rules out grant of any concession. The learned State counsel has, however, informed that as on date 14 out of 44

prosecution witnesses have been examined and that the petitioner has been behind bars since the last about 3 ½ years.

7. I have considered rival submissions addressed before this Court.
8. It is no doubt correct that the petitioner is not named in the FIR wherein only the incident of firing by two young boys is described by the eye-witness. However, the facts in the present case show that the petitioner and the co-accused, some of whom are related to her were aggrieved on account of the fact that Mamta had run away from home with a boy of a Balmiki caste. The disclosure statement (Annexure P-7) made by co-accused Ramesh reveals the said facts. The relevant extract from the disclosure statement reads as follows :-

“.....I had no daughter or child. I had adopted Mamta, the daughter of my brother-in-law Ramkesh S/o Dhupal r/o Gaddi Kheri in the year 2002. I only used to take care of Mamta. On 24.8.2017 my daughter Mamta without informing us went from the house with all of her ID's and Certificates. A few days before only Sumin s/o Jashraj, Caste Balmiki R/o Singhpora started staying on rent in our house in the city and we got suspicious that Sumin only took my daughter and ran away. My daughter was a minor at that point of time. About this I got a case bearing FIR No. 580/17 U/s 363, 366A IPC registered in P.S. City Rohtak. In this case the police arrested Sumin and his father Jasraj and sent them to jail and my daughter Mamta on the order of the court was sent to Nari Niketan, Karnal. About one month back me and my wife Krishna went to the farms of my brother-in-law Ramkesh in Village Gaddikheri and there my brother-in-law Ramkesh his wife Savita and my other brother-in-law Baljeet's son Mohit were already present there. We all together made a conspiracy that Mamta by marrying against our wishes by running from home

with Sumin who is a Balmiki, defamed us and our caste and have not left in a position to face the society. Since that day we have not been able to sleep properly. While meeting everyone in the society we feel ashamed. On many dates in the court and in Nari Niketan, Karnal we met Mamta and told her to break her marriage and come home but Mamta refused. Due to keeping a grudge because of this reason we in pursuance of a conspiracy through a plan decided to get Mamta killed.....”

9. The aforesaid factual position wherein the petitioner, who is the biological mother, had conspired to get her daughter killed through professional killers on account of ‘compromising of their honour’ and in the process one more person had also been killed certainly does not leave any room for leniency. Although, the petitioner has been behind bars for 3½ years and the prosecution has not been able to conclude its evidence inasmuch as only 14 out of the 44 prosecution witnesses have been examined but the said delay can also be attributed to the recent circumstances i.e. spread of pandemic.
10. As far as the contention of the petitioner pertaining to claim of parity with the case of other co-accused Sombir, Vikas and Mohan Dass is concerned, the petitioner cannot claim any benefit on account of the fact that the said accused had been granted bail inasmuch as the said persons were not related in any manner to the deceased whereas the petitioner, being the biological mother, did have a motive to eliminate the deceased on the so called ground of assumed compromise of their honour. It will not be out of place to mention that during the proceedings of trial, two eye-witnesses who are named in the FIR itself namely Saroj and Dinesh have been examined and both of them have fully supported the case of prosecution.

11. In these circumstances, while dismissing the bail, it is directed that the trial Court shall take all such necessary steps as may be possible under the present circumstances of spread of pandemic for expediting the conclusion of trial. The prosecution shall ensure the presence of the prosecution witnesses on the dates, as may be fixed by the trial Court for recording their statements so that there is no further delay in the proceedings of trial. The Trial Court may make a schedule in advance for summoning the PWs and fix short dates for the witnesses to be summoned. Special messengers be deputed for securing presence of the witnesses. If deemed necessary, a request be also be made to Senior Superintendent of Police concerned for ensuring that the presence of all the PWs is secured for the dates as may be fixed by the Trial Court.

12. The petition stands dismissed with the aforesaid directions.

25.2.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No