

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(2023:PHHC:043514)

(215)

CRM-M-5952-2023

Date of Decision: 23.03.2023

Gurbinder Kaur

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Dushyant Rana, Advocate for
Mr. Tarun Seth, Advocate for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.132 dated 30.7.2022 under sections 306 & 34 I.P.C, registered at Police Station, City Jagraon, District Ludhiana Rural.

As per factual matrix, a complaint was lodged by Bittu son of Om Parkash, wherein it was alleged that his younger brother Ramesh Kumar was married to Gurbinder Kaur i.e. the present petitioner about 10 years ago. After the marriage, they were blessed with two children. It was further alleged that his brother did not have cordial relations with his wife. On 29.7.2022 his brother Ramesh Kumar consumed some poisonous substance due to bitter relationship with his wife. He was taken to hospital, however, he died. It was alleged that his brother had been tortured by his wife and her brothers. It was also alleged that his brother Ramesh Kumar had made his video and the same was also presented to the police. A request was made to take legal action against the culprit.

On the basis of the complaint, present FIR was lodged and investigation commenced. Petitioner Gurbinder Kaur was arrested on 30.7.2022. She approached learned Addl. Sessions Judge, Ludhiana for grant of bail, however, after hearing the parties, the same was declined vide order dated 14.10.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. It is submitted that admittedly petitioner was married to deceased about 10 years ago and they were blessed with two children after the marriage. He submits that the dispute, if any, was a normal wear and tear of the family life and the same has no concern with the alleged offence. It is submitted that deceased died due to consuming some poisonous substance. It is submitted that a bare reading of provisions of Section 306 IPC along with section 107 IPC would make it clear that no abetment or instigation was made in the facts and circumstances of the case. Counsel submits that there are total 4 accused in this case and rest of the 3 accused have already been granted the benefit of anticipatory bail. It is submitted that petitioner is the mother of two children, who are virtually at the mercy of the relatives as on date. It is submitted that in the overall facts and circumstances of the case, petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel has submitted that there are specific allegations against the petitioner. He submits that petitioner is the wife of the deceased and specific allegations of torturing the deceased have been levelled against her on account of which the deceased

consumed the poisonous substance and ended his life. He submits that deceased also made a video before his death which is part of the challan. It is submitted that after completion of investigation challan has been presented and charges have been framed. It is further submitted that in total there are 9 prosecution witnesses and examination of the witnesses is yet to begin. The case is fixed before the Trial Court on 12.4.2023. It is submitted that as per information provided to him petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is the wife of the deceased. The allegations made in the FIR are regarding the torture of the deceased by the petitioner along with her brothers. Whether the offence under Section 306 IPC read with Section 107 IPC is made out or not would be a subject matter of trial. Out of the total 4 accused 3 have already been granted the benefit of anticipatory bail. Admittedly, petitioner is the mother of two children who are virtually at the mercy of the relatives. There is nothing on record to show that petitioner has any criminal antecedents.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be

enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

23.03.2023
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No