

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 9951/2022

Date of decision: 07.07.2023.

Darshan Kaur @ Darsho

.....Petitioner

Vs.

State of Punjab

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Pankaj Kumar, Advocate for the petitioner.

Mr. Pankaj Khullar, AAG Punjab

Nidhi Gupta, J.

Petitioner, mother-in-law of deceased Suman, in her first bail application u/s 439 of Code of Criminal Procedure, 1973 seeks regular bail in case FIR No.0097 dated 31.7.2021 u/s 304-B/34 IPC, PS Fattu DHINGA, District Kapurthala (Annexure P-1).

Ld. counsel for the petitioner inter alia submits that husband of the deceased i.e. Sukhdev-son of the petitioner is already in jail. Complainant is mother of deceased Suman. Two minor children of deceased are with the second daughter-in-law of the petitioner as the family of deceased including complainant have washed their hands off from taking care and responsibility of the minor children of the deceased. It is further submitted that there was dispute between Sukhdev-husband and Suman-deceased wife as Sukhdev used to take narcotics and there was criminal case registered against him under the NDPS Act and he has already suffered custody in the above said FIR and it is thereafter, that some dispute arose between him and his deceased wife in which petitioner has no role to play. It is further submitted that petitioner being mother of Sukhdev has been unnecessarily embroiled in the matter. It is then submitted that petitioner is around 70 years old and is in custody since 22.10.2021 and suffering from old age ailments. It is further submitted that as per allegations a demand of Rs.70,000/- was made

from the deceased for house repair, however, no evidence in this regard has been led and no date or month has been given in the FIR as to when this demand was made.

Per contra, ld. State counsel opposes the prayer and submits that there is categoric allegation against the petitioner that she had demanded Rs.70,000/- from the deceased to pay for plaster of the house. However, he is unable to produce any evidence in this regard. Ld. State counsel has produced custody certificate dated 6.7.2023 according to which the petitioner is in custody for the last 1 year 8 months and 17 days. Custody certificate is taken on record.

After hearing the ld. counsel for the parties and keeping in view the fact that:-

- (i) petitioner has already undergone 1 year 8 months and 17 days;
- (ii) she is around 70 years of age and suffering from old age ailments;
- (iii) as per custody certificate there is no other case pending against her;

the present petition is allowed and petitioner Darshan Kaur @ Darsho w/o Lal Chand is ordered to be released on bail during trial subject to her furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

It is made clear that nothing stated above shall be taken as an expression of opinion on the merits of the case.

07.07.2023.	(Nidhi Gupta)
Joshi	Judge
Whether speaking/reasoned	Yes
Whether reportable	Yes/No