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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13172-2021 (O&M)

Date of decision: July 27, 2023

Malti Minhas

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Gursimran Singh Madan, Advocate for petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

ARUN MONGA, J. (ORAL)

This is second foray of the petitioner, before this Court, seeking regular bail in a case bearing FIR No.23 dated 18.02.2016, registered under Sections 365, 302, 201 read with Section 34 of Indian Penal Code at Police Station, Division No.5, District Ludhiana, as the earlier one was dismissed as withdrawn on 18.09.2018.

2. Per prosecution version, complainant Kulbahaar Singh Tiwana lodged missing report of his maternal uncle Raminder Singh Cheema (since deceased). He alleged that his maternal uncle had rented out the front portion of his flat to his brother-in-law (Jija), namely, Ajitpal Singh Tiwana in which the latter was running a Laser Center in the name and style of 'Rejoveni 24 E Aesthetics', which was looked after by complainant himself. One Arvinder Singh was also appointed as Manager in the said Centre.

2.1. On 14.01.2016, deceased Raminder Singh Cheema offered Arvinder Singh, Manager to accompany him to attend a birthday party of his friend's son at Delhi but he expressed his unwillingness, whereafter Raminder Singh Cheema proceeded to Delhi all alone in his Maruti car bearing registration No.PB-10BR-8814. However, he neither reached Delhi nor returned home. Complainant then lodged a missing report of Raminder Singh Cheema on 06.02.2016 vide Rapat No.17 at P.S. Division no.5, Ludhiana.

2.2. On 25.02.2016 complainant gave a supplementary statement to police that his maternal uncle Raminder Singh Cheema (since deceased) had illicit relations with two ladies at the same time i.e. petitioner and co-accused Paramjit Kaur. Complainant had a suspicion that both petitioner and Paramjit Kaur might have done something to his uncle to grab his property.

2.3. On 08.03.2016, petitioner was arrested in case FIR No.32 dated 07.03.2016, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station, Phagwara. Petitioner remained in custody in the NDPS case from 08.03.2016 to 06.08.2018. During investigation of that case, petitioner vide her disclosure statement admitted her complicity in the commission of murder of deceased Raminder Singh Cheema. After investigation, police has nominated 3 accused persons in the instant FIR, namely, Paramjeet Kaur, Inderjeet Singh and the petitioner herein. After bail in the NDPS matter, petitioner is in custody in the present case, from 07.08.2018 onwards till date.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in the present case. He further submits that similarly placed co-accused of the petitioner, namely Inderjeet Singh has already been accorded concession of anticipatory bail vide order dated 20.12.2016 (Annexure P-2) passed by a co-ordinate Bench of this Court in CRM-M-14977-2016, and another co-accused, namely, Paramjeet Munder was also granted the concession of anticipatory bail vide order dated 17.04.2017 (Annexure P-3). He further argues that on the ground of parity alone, petitioner is entitled to be released on bail during pendency of trial. He informs that in FIR No.32 registered under Section 21 of NDPS Act, petitioner has though been convicted, but her sentence was suspended by this Court vide order dated 25.11.2020 (Annexure P-12). Notwithstanding, due to some unfortunate circumstances, she continues to be in judicial custody for non-furnishing of bail bonds even in that case. However, that does not disentitle her to seek bail in the present case, he contends.

4. On the other hand, learned State counsel, on instructions from ASI Jaspal Singh opposes the bail petition. She submits that petitioner along with her co-accused has

committed a serious offence by giving poisonous substance to the deceased, who was killed by the poison. She would further submit that if enlarged on bail, petitioner may tamper with the evidence and/ or influence the witnesses. She further submits that petitioner was arrested on 08.03.2016 in an NDPS matter. During investigation, she herself confessed her involvement in the instant case.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Challan is stated to have been presented, charges have been framed. Investigation is thus complete *qua* petitioner. There are total 35 witnesses and out of them, 13 have been examined so far. Since trial has commenced, she is thus not required for custodial interrogation. Bail allows an accused to maintain his freedom until his guilt or innocence is determined. Allegations against petitioner are a matter of trial at this stage. Commencement/conclusion of the trial is likely to take quite sometime. Whereas petitioner has already been languishing in jail for more than 07 years in preventive custody, being behind bars since 08.03.2016.

7. Co-accused/Inderjit Singh and Paramjit Munder have been granted concession of bail by a co-ordinate Bench of this Court vide orders dated 20.12.2016 and 17.04.2017 (Annexures P-2 and P-3).

8. Petitioner is being kept in preventive custody merely on an unfounded suspicion that if she is let out, she may either tamper with evidence and/or influence witnesses.

9. Considering the overall scenario and longevity of total continued confinement (more than 7-years), and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail, in case not required in any other case, on her furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where her case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

11. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
12. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 27, 2023
vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No