

2023:PHHC:102793

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

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**CRM M-11566 of 2023
Date of Decision: 01.08.2023**

Babita

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Pardeep Singh Poonia, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has moved the present petition under Section 439 Cr.P.C. with a prayer to grant the concession of regular bail to her in case FIR No. 374 dated 28.10.2021 under Sections 120-B, 302, 201 read with Section 34 IPC registered at Police Station Gannaur, District Sonipat.

2. As per the story of the prosecution, the FIR was registered on the basis of a complaint moved by PSI Amit Kumar. As per the complainant, he received a secret information that Anshu daughter of Maha Singh aged 16 years had been murdered by her father alongwith his family in suspicious circumstances and she had been cremated in dark at 05.00 a.m. On getting this information, the FIR was registered against Maha Singh and family members. As per the prosecution, during the course of investigation, it was found that

Babita wife of Maha Singh, petitioner had conspired with her husband to commit the murder of their own daughter, namely, Anshu. In pursuance to the said conspiracy, she alongwith her husband forced their daughter to consume cilphos tablets. The petitioner had caught hold of hands of her daughter Anshu, whereas her husband forcibly administered 8/9 tablets of cilphos and as a result of the same, Anshu died and, thereafter, the accused cremated the dead body of Anshu secretly.

3. Learned counsel for the petitioner contends that the petitioner and her husband had no reason to kill their daughter Anshu. In fact, the prosecution could not collect any incriminating evidence, from which, the involvement of the petitioner could be inferred in the present case. Rather, the petitioner was arrayed as an accused in the present case on the basis of disclosure statement suffered by her co-accused Maha Singh and even in the alleged disclosure statement, no role was assigned to her. Further, it was alleged that the petitioner had also suffered a disclosure statement, but no recovery was effected from her pursuant to the said statement made in the police custody. Learned counsel further contends that the petitioner was arrested in the present case on 29.10.2021 without any legally admissible evidence against her. While referring to the statements of PW1 Virender, PW2 Inder Singh, PW3 Ashok, PW4 Satish and PW5 Vinod (Annexures P-1 to P-5), learned counsel contends that all the material witnesses of the prosecution had turned hostile and had refused to

support the case of the prosecution. Still further, Inder Singh PW2 was joined as witness to the disclosure statement made by the present petitioner, however, while appearing as PW2, Inder Singh clearly stated that the police never recorded his statement in the present case and his signatures were obtained on the blank papers and no such disclosure statement was recorded in his presence. Learned counsel further contends that the petitioner is a house wife and has two school going minor children, who are studying in 9th and 6th class and there was no person at home to look after them. Learned counsel further contends that even the prosecution could not lead any evidence so far to show that the petitioner had hatched a criminal conspiracy with her husband to commit the murder of their own daughter and petitioner deserves the concession of bail.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that it was a case of honour killing and the petitioner and her husband had killed their own daughter Anshu aged about 16 years and secretly cremated the dead body. However, she admits that no postmortem examination was conducted on the dead body of the deceased.

5. I have heard learned counsel for the parties and perused the record.

6. It is not in dispute that the petitioner was arrested in the present case on 29.10.2021 and is in custody for more than 1 year and

5 months. No other criminal case was ever registered against the present petitioner and all the material witnesses of the prosecution have already turned hostile. Apart from that, the petitioner is mother of two minor children, namely, Rupesh Rathee and Ritesh Rathee, who are studying in 6th and 9th class, respectively.

7. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

01.08.2023

amit rana

(N.S.SHEKHAWAT)

JUDGE

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