

2023:PHHC:061652

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

207

CRM-M-20421-2023

Date of Decision: 1st May, 2023

Avtar Singh alias Shambu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Jaiveer, Advocate for
Mr. P.S. Ahluwalia, Advocate for the petitioner.

Mr. Iqbal Singh Mann, Deputy Advocate General, Punjab.

AVNEESH JHINGAN , J.(Oral)

1. This petition is filed seeking regular bail in case of FIR No. 77 dated 21.4.2020 under Sections 302, 34 and 201 of IPC, 1860 registered at P.S. Dirba, District Sangrur.
2. Learned counsel for the petitioner claims parity with co-accused Kamaljeet Kaur who was granted regular bail by this court on 31.10.2022 in CRM-M-49286-2022.
3. On 31.10.2022, the following order was passed :-

“The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.77 dated 21.04.2020, under Sections 302, 34 and 201 of IPC registered at Police Station Dirba, District Sangrur.

Learned counsel at first contends that there is a delay of more than 05 weeks in lodging of the FIR, time enough to falsely implicate the petitioner. He further submits that it is a case of hearsay evidence inasmuch as the complainant has stated to have conducted her own inquiry, based on which drew a conclusion of petitioner having or being in an illicit relation with co-accused Avtar Singh, had committed the murder of her brother, who was the husband of the petitioner. He submits that there is an apparent motive to falsely implicate the petitioner to usurp the ancestral property of the father of the complainant falling in share of husband of the petitioner, who was the brother of the complainant. He further submits that the petitioner has been in custody for the last 02 years and 06 months, having been

arrested on 21.04.2020. He has also placed on record the statements of material witnesses of the case. It is his further submission that there are still 23 witnesses yet to be examined. There are no criminal antecedents of the petitioner and she is a 50 years old lady having a married daughter, unmarried son and daughter. He further submits that the son of the petitioner had also made a statement during the inquest proceedings, Annexure P-2, wherein he had specifically stated that his father had died due to he alongwith his motorcycle having fallen in a drain.

Contrarily, learned State counsel opposes the bail application on the ground that the petitioner is the prime accused, as the motive lay with her being in an alleged illicit relationship with the co accused Avtar Singh. He however, is unable to controvert the fact that the petitioner has been in custody for the last 02 years and 06 months and that out of 31 witnesses, only 8 have been examined.

Heard.

In view of the facts and circumstances of the case, in particular that the petitioner, a widow having two unmarried children, has been in custody for the last 02 years and 06 months; statements of material witnesses have already been recorded; since 23 witnesses are yet to be examined, the conclusion of the trial will take a considerable time, her further detention behind bars would not serve any useful purpose, thus, the present petition for grant of regular bail deserves to be allowed.

Resultantly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to her furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to her not being required in any other case. The petitioner shall abide by the following conditions:-

- 1. The petitioner will not tamper with the evidence during the trial.*
- 2. The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- 3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- 4. The petitioner shall not commit an offence similar to the offence of which, she is an accused, or for commission of which she is suspected of.*
- 5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- 6. The petitioner shall not in any manner misuse his liberty.*
- 7. Any infraction shall entail in withdrawal of the benefit granted by this Court.*
- 8. The petitioner shall furnish her address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*
- 9. The petitioner shall deposit her passport, if any, with the Trial*

Court forthwith and in case, she does not have the passport, she shall furnish a specific affidavit in that regard.

It is made clear that in case of breach of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.”

4. Learned counsel for the State though opposes the prayer for grant of bail, he is not in a position to distinguish the case of the petitioner qua the co-accused so far as grant of bail is concerned.
5. Without commenting on the merits of the case, on the basis of parity of petitioner vis-a-vis co-accused so far as grant of bail is concerned, and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.
6. The petition is allowed.
7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main case has been decided, the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

1st May, 2023
anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No