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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-20556-2023 (O&M)****Date of decision: 31.08.2023**

Palwinder Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Hitesh Verma, Advocate,
for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the second bail application under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 75 dated 08.11.2021 registered under Sections 302, 307, 364, 379-B, 326, 325, 324, 323, 148 & 149 IPC (Sections 307, 379B, 326, 325, 324 of IPC have been added later on) at Police Station Balianwali, District Bathinda.

2. Learned counsel for the petitioner has submitted that the petitioner is a lady and has been implicated in the present case along with six other members of her family, including her mother-in-law, Sukhdev Kaur and that as per the FIR, no specific role or injury has been attributed to the petitioner and no recovery has been effected from the petitioner. It is further submitted that the petitioner is in custody since 02.03.2022 and the investigation is complete and challan has been presented and there are 32 witnesses, out of whom, only three have been examined and thus the trial is likely to take time. It is further submitted that the last bail application of

the petitioner was dismissed as withdrawn on 19.09.2022 at that stage with liberty to file a fresh petition after the examination of the complainant Harjeet Singh, who is the brother of the deceased and that the said Harjit Singh has been examined as PW-1 and he has stated in his examination-in-chief that accused persons, including the present petitioner did not cause any injury to his brother Gurdev Singh or to the other injured and has been declared hostile. It is further submitted that even the mother of the deceased i.e. Pritam Kaur has been examined as PW-2 and in her examination-in-chief, she has also stated that she has no knowledge regarding the present case and the accused persons, including the present petitioner did not cause any injury to the deceased Gurdev Singh or to the other injured persons. Learned counsel for the petitioner has submitted that Sukhwinder Singh, who as per the prosecution case, is an eye witness and has also been injured in the incident, has been examined as PW-3 and even he has stated in his evidence that the accused persons, including the present petitioner did not cause any injury to him or Gurdev Singh (deceased) and Satnam Singh. It is submitted that the mother-in-law of the present petitioner Sukhdev Kaur, whose case is similar to the case of the present petitioner, with the exception that she is a 70 year old lady, has been granted the concession of bail by the Addl. Sessions Judge, Bathinda vide order dated 06.08.2022 (Annexure P-5) and the said Gurdev Kaur had also surrendered along with the present petitioner on 02.03.2022. It is submitted that the custody of the present petitioner is one year more than that of said co-accused Gurdev Kaur and that Gurpal Singh @ Jassi Aulakh and Ranjit Singh, who although were not named in the FIR but from whom recovery of *Kirpan* and *Gandasi* was effected, have also been granted the concession of bail by this Court vide

order dated 31.08.2022. It is further submitted that while granting bail to the mother-in-law of the petitioner, Addl. Sessions Judge, Bathinda had noticed that there were 15 injuries on the person of the deceased and there are total 22 accused persons named in the case. It is submitted that in the said circumstances the petitioner also deserves the concession of regular bail.

3. Learned State counsel on the other hand, has opposed the present petition for regular bail and has submitted that the present petitioner is involved in two other cases and, thus, is a habitual offender. It is also submitted that the petitioner has been named in the FIR along with other accused and there was a dispute regarding land on account of which Gurdev Singh has been killed by the accused party, which included the present petitioner.

4. Learned counsel for the petitioner, in rebuttal, has submitted that even the other two FIRs, are with respect to the land dispute with the complainant party, and the petitioner has already been granted bail in both the said cases and has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi Vs. State of U.P. and another”***, ***reported as 2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other

circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

5. This Court has heard learned counsel for the parties and have perused the paper-book.

6. The petitioner, who is a lady aged 39 years, has been in custody since 22.03.2022; the investigation is complete and the challan has been presented, and there are total 32 witnesses, out of whom, only three have been examined and thus, the trial is likely to take time. The last bail application of the petitioner was dismissed as withdrawn at that stage on 19.09.2022 with liberty to file a fresh petition after Harjit Singh, complainant has been examined. A perusal of the FIR would show that no specific injury has been attributed to the present petitioner and six other family members of the petitioner have been named in the present FIR, including her mother-in-law namely, Sukhdev Kaur. The complainant in the present case is Harjit Singh, who is the brother of deceased Gurdev Singh and has been examined as PW-1 and in his examination-in-chief, he has specifically stated that accused persons, including the present petitioner did not cause any injury to his brother Gurdev Singh or to Satnam Singh or Gursewak Singh. Even the mother of the deceased i.e. Pritam Kaur has been examined as PW-2, who has also turned hostile and has given a statement, similar to the statement given by PW-1. Sukhwinder Singh, who, as per the case of the prosecution, is an eye witness and also an injured, has also stated that the accused persons, including the present petitioner did not cause any injury to him or to the deceased-Gurdev Singh or Satnam Singh. No recovery has been effected from the present petitioner. The petitioner along with her mother-in-law Sukhdev Kaur had surrendered on 02.03.2022 and

the mother-in-law of the petitioner Sukhdev Kaur has been granted the concession of regular bail by the Addl. Sessions Judge, Bathinda vide order dated 06.08.2022 and in paragraph 6 of the said order, it has been noticed that 22 persons have been named in the present case, including five ladies. Gurpal Singh @ Jassi Aulakh and Ranjit Singh, who, although were not named in the FIR but recovery of *Kirpan* and *Gandasi* had been made from them, have been granted regular bail by this Court vide order dated 31.08.2022.

7. Keeping in view the above-said facts and circumstances as well as the law laid down in ***Maulana Mohd. Amir Rashadi***'s case (supra), the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail / surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to her not being required in any other case. The petitioner shall also abide by the following conditions:-

- a). The petitioner will not tamper with the evidence during the trial.
- b). The petitioner will not pressurize / intimidate the prosecution witness(s)
- c). The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- d). The petitioner shall not commit an offence similar to the offence of which she is accused of, or for commission of which she is suspected.
- e). The petitioner shall not directly or indirectly make any inducement, threat 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.

8. In case of breach of any of the above conditions, the

prosecution shall be at liberty to move an application for cancellation of bail before this Court.

9. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

10. All pending applications, if any, shall stand disposed of.

31.08.2023

Satyawan

(VIKAS BAHL)
JUDGE

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