

(212) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23382-2023

Date of Decision:12.05.2023

Reena

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present : Mr. Sumit S. Bairagi, Advocate for the petitioner.

Mr. Bijender Dhankar, Addl. A.G. Haryana.

SANDEEP MOUDGIL, J. (Oral)

This petition under Section 439 Cr.P.C has been filed for grant of regular bail to the petitioner in FIR No.463 dated 23.12.2021 registered under Sections 302, 120-B, 201 and 404 IPC at Police Station Sadar Pehowa, District Kurukshetra.

Learned counsel for the petitioner contends that the petitioner has been arrayed in the memo of accused merely on the basis of disclosure statement of her husband. He further contends that all the family members of the petitioner have been roped by the police in the present case whereas it is only her husband who has extorted money from the complainant's mother. Apart from that, it is also vehemently contended that the petitioner has not been attributed any injury whatsoever on the person of the deceased nor any recovery of weapon is effected as she has not used any pistol or weapon meaning thereby not involved in the commissioning of offence whatsoever.

On the other hand, learned State counsel vehemently contends that the motive was present in the commissioning of such offence as the petitioner has been named by his own husband in the disclosure statement. The petitioner has

undergone custody of 1 year 4 months 10 months. It is further contended by the learned State counsel that the petitioner is involved in one another case bearing FIR No.60 dated 19.03.2020 registered under Sections 20/61/85 of NDPS Act at Police Station Kotwali Patiala, Patiala

Considering the aforesaid facts and examining the case on the basis of the submissions made by the learned counsel for the parties, it is an admitted fact that the petitioner is not named and has been arrayed as an accused on the basis of disclosure statement suffered by her husband. It is also the case of the prosecution as well as submission made by the learned State counsel that petitioner did not use any weapon in the commission of offence. Challan has been filed and charges have been framed and now the case is fixed for prosecution evidence. Out 36 prosecution witnesses, only 13 witnesses have been examined so far.

Now the contention that the petitioner is involved in another case as has been stated hereinabove, this Court has also dealt the issue that evidence of another case cannot be read and will not be entertained during the course of trial in the instant FIR and each case is tried and examined on the basis of material available in its particular case alone otherwise the situation would be such that none of the accused would be able to get the benefit of bail and it will be against the very basis of criminal law, which was set in motion by constituting criminal procedure. Besides right of protection is given to each and every accused until he is convicted under Article 21 of the Constitution of India. The person cannot be detained for indefinite period. In this case, the petitioner has suffered incarceration of 1 year 4 months and 10 days and no overt act has been attributed to her. Investigation is complete and now the case is proceeding further on the basis of prosecution evidence.

Considering the totality of facts and circumstances of the case

particularly the custody already faced by the petitioner during the pendency of the

trial which is likely to take sufficient time to conclude, this petition is allowed and the petitioner is ordered to be released on bail subject to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

12.05.2023
rajeev

Whether speaking/reasoned
Whether reportable

(SANDEEP MOUDGIL)
JUDGE

Yes/No
Yes/No