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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-24119-2023****Date of decision : 31.10.2023****Pushpa****.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********Present :-** Mr. Gagan Pradeep Singh Bal, Advocate
for the petitioner.

Mr. Arun William, AAG, Punjab.

Mr. Vishal Aggarwal, Advocate and
Mr. Arvind Kashyap, Advocate
for the complainant.*********RAJESH BHARDWAJ, J. (Oral)**

Petitioner has approached this Court praying for grant of regular bail to him in case FIR No.120 dated 30.12.2022, under Sections 302, 307, 323, 506, 34 of IPC, registered at Police Station Sadar Pathankot, District Pathankot.

Adumbrated facts of the case are that the FIR was lodged on the statement of Kailasho wife of Som Raj. It was alleged that on 30.12.2022 at about 03:45 PM, when she was standing near the gate then Puran Chand son of her brother-in-law came there and started spitting towards her. On raising objection, he started abusing her and thereafter, her son Pawan Bhagat arrived there and some verbal altercation took place between Pawan Bhagat and Puran Chand. It was alleged that thereafter, Suresh Kumar son of Des Raj came there armed with iron rod. She alleged that they started blaming them for selling the plot without consent of the

family and also threatened to kill them. Suresh Kumar then hit Pawan Bhagat armed with iron rod on his head and he started bleeding profusely. On hearing the cries, her younger son Kamal Kumar, Pushpa Devi and Bhawana also rushed to the spot. Finding Pawan Bhagat injured, he was shifted to Civil Hospital, Pathankot for medical treatment. Request was made to take legal action against the culprits. On registration of the FIR, investigation commenced and the accused were arrested. The injured Pawan Bhagat succumbed to the injuries on the next date i.e. 31.12.2022 and thus, offence under Section 302 IPC was added. The postmortem of the deceased was carried out. The petitioner was arrested on 30.12.2022. She approached the Court of Learned Additional Sessions Judge, Pathankot praying for grant of bail. However, the same was declined by learned Additional Sessions Judge vide order dated 15.03.2023. Hence aggrieved by the same, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that petitioner is an old aged lady and has been falsely and frivolously implicated in this case. He submits that the dispute is within the family members. There is already property dispute going on between them. He submits that as per the case of prosecution, it is apparent that the petitioner has been named in the FIR with a motivated mind. He submits that the occurrence had taken place wherein Pawan Bhagat was caused injury by the co-accused and hence the name of the petitioner was mentioned in the FIR intentionally to implicate her falsely. He submits that at the time of occurrence, while giving injury to deceased, petitioner was not even present. He submits that as per allegations made by the complainant, the petitioner came subsequent to the place of occurrence. He submits that

even otherwise, no overt act has been attributed to the petitioner. He has submitted that the petitioner is behind bars since the date of her arrest. He submits that the investigation is complete, charges are framed and even the trial Court has commenced with recording of the evidence of prosecution witnesses. He submits that though there is another FIR No.15 dated 03.02.2021, under Sections 354, 324, 323, 148, 149 of IPC, at Police Station Sadar Pathankot against the petitioner, however, she is on bail in that case. He submits that in the overall facts and circumstances of the case, petitioner deserves to be granted regular bail.

Learned counsel for the complainant has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that presence of the petitioner is duly proved from the CCTV footage recovered by the investigating agency. He submits that petitioner had duly participated in the occurrence and thus, all the accused had the common intention in causing fatal injuries to the deceased and to the injured as well. It is submitted that the petitioner is also involved in another FIR No.15 dated 03.02.2021, under Sections 354, 324, 323, 148, 149 of IPC, at Police Station Sadar Pathankot. He submits that there is no ground to grant bail to the petitioner.

Learned State counsel has also opposed the submissions of learned counsel for the petitioner. He submits that the presence of the petitioner is duly proved, challan is filed and the charges are also framed against the petitioner. He has submitted that all the accused had the common intention to cause the murder of the deceased and thus, the case of the petitioner cannot be distinguished from others at this stage. He, however, submits that the petitioner was not armed with any weapon and

as per the case of prosecution, she has not caused any injury to the

deceased and or any other person.

I have heard counsel for the parties and perused the record. Evidently, the occurrence has taken place on 30.12.2022. Both the sides are the members of the same family. As per allegations made by the complainant, petitioner came to the spot after the deceased was hit with iron rod on his head by the co-accused Suresh Kumar who is in custody. There is nothing on record to show that petitioner was armed with any weapon or she caused any injury to any one. Though there is an FIR lodged against the petitioner, however, she is on bail in the same. Investigation is complete and charges are framed.

The veracity of the allegations would be assessed only after the conclusion of trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficiently long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, 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. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

31.10.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No