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

CRM-M-35775-2022

Date of Decision: 02.06.2023

Sunita

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sahil Choudhary, Advocate for
Mr. Manjeet Saini, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

HARSH BUNGER J.

1. Petitioner (Sunita) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case bearing FIR No.397 dated 14.08.2021, under Sections 201, 302 read with Section 34 of the Indian Penal Code, registered at Police Station Meham, District Rohtak.

2. Status report by way of affidavit dated 21.01.2023 of Dr. Ravinder, H.P.S., Deputy Superintendent of Police, Rohtak, has been filed on behalf of State of Haryana, which is already on record.

3. Custody certificate dated 27.03.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

4. Briefly, the aforesaid FIR was registered on the complaint of Satish s/o Om Parkash, who had stated that his brother-in-law (Satyawan) was married to Sunita (petitioner) in the year 1990 and he was having two sons and one daughter. The elder son, namely Karampal @ Rahul, and

another son, namely Vikas, were unmarried and both of them were living with their mother Sunita. Karampal @ Rahul was stated to have some dispute with his mother. It is stated that about two and a half months ago, Sunita left the village after locking her house and the whereabouts of Karampal @ Rahul were not known. As per the complainant, he had a suspicion that Sunita was having some relation in the missing of Karampal @ Rahul and he might be killed by her. On this basis, the present FIR was registered.

5. A perusal of the paper book would show that during investigation of the case, the house of Satyawan was found locked. On 15.08.2021, Vikas was arrested, who suffered a disclosure statement that on 06.06.2021, he along with his mother-Sunita (petitioner) had murdered Karampal @ Rahul and buried the dead body in the room of the house and thereafter, they had put cement on the ground. Further on 15.08.2021, Sunita (petitioner) was also arrested in the present case and she also suffered her disclosure statement. It appears that the Forensic Science Laboratory Team was called at the spot of occurrence and dead body of deceased-Karampal @ Rahul was got recovered in the presence of Duty Magistrate, team of Doctors as well as Forensic Science Laboratory, whereupon postmortem on the dead body was conducted and after completion of the investigation, challan was submitted in the Court.

6. Learned counsel for the petitioner submits that the petitioner is innocent and she has been falsely implicated in FIR No.397 dated 14.08.2021. It is submitted that the material witnesses in the case have been examined, however, they have turned hostile. In this regard, reference is made to the statements (Annexures P-1 to P-5). Learned counsel states that there is no eye-witness to the alleged occurrence and the case is based upon

circumstantial evidence.

7. Learned counsel submits that the petitioner had applied for grant of regular bail before the Court of Sessions Judge, Rohtak, which was wrongly declined vide order dated 07.06.2022 (Annexure P-5). It is stated that the petitioner was arrested in this case on 15.08.2021 and since then she is in custody; investigation of case is complete, challan stands submitted on 08.11.2021 and even charges have been framed on 24.12.2022, hence, conclusion of trial will take some time and no useful purpose would be served with further incarceration of the petitioner. Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

8. Per contra, learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness and gravity of the offence and also the manner in which the murder has been committed. Learned State counsel submits that the petitioner is the main accused in the present case and she in collusion with co-accused (Vikas) committed murder of Karampal @ Rahul by strangulating him with the help of rope and petitioner along with Vikas had tried to dispose of the dead body by burying the same underneath the floor and laid down new floor. It is submitted that the dead body of Karampal @ Rahul (deceased) was recovered from a room of the house of petitioner. It is next submitted that the material witnesses are yet to be examined. Learned State counsel submits that in case the petitioner is released on bail then she might influence the witnesses and also abscond and delay the trial. It is further submitted that out of the total twenty seven prosecution witnesses cited in this case, four witnesses stand examined and two witnesses have been given up. It is stated that the Regional Forensic

Science Laboratory Report from Sunaria and Forensic Science Laboratory Report from Madhuban have also been received in this case. Learned State counsel submits that the petitioner has committed a heinous offence and thus she is not entitled for grant of regular bail.

9. I have heard learned counsel for the parties and perused the paper book, status report as well as custody certificate of the petitioner.

10. The present case relates to the murder of Karampal @ Rahul, who is none other than the son of petitioner. As per the FIR, the petitioner is accused of murdering her elder son in connivance with her younger son. The dead body of a human, which was recovered from the room of the house of petitioner, is allegedly of Karampal @ Rahul (elder son of the petitioner). Although, the petitioner was arrested on 15.08.2021 and even charges have been framed in this case, however, in my considered opinion, merely long incarceration cannot be a ground to extend the concession of bail to the petitioner, who is the main accused in the crime and is being tried for a heinous and grave offence of murder of Karampal @ Rahul. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav, 2004(2) RCR (Criminal) 254***, Hon'ble Apex Court held as under:

“The condition laid down under Section 437(1)(i) is sine qua non for granting bail even under Section 439 of the Code. In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to be enlarged on bail, nor the fact that the trial is not likely to be concluded,

in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”

11. Furthermore, when the accused is facing serious charges, he may develop temptation to jump the bail. The apprehension expressed by the State counsel that if released on bail, there is every likelihood of the petitioner trying to tamper with the prosecution evidence by giving threats and inducement to the prosecution witnesses and absconding even to prolong the trial, cannot be brushed aside lightly.

12. Hence, keeping in view the gravity and nature of the offence, I do not deem it fit to extend the concession of regular bail to the petitioner. Accordingly, the present petition is dismissed.

13. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

14. All pending application(s), if any, shall also stand closed.

02.06.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No