

CRM-M-41750-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41750-2023
Reserved on: 10.10.2023
Pronounced on: 19.10.2023

Pinki ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Yadwinder Singh, Advocate for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
38	23.08.2020	City Pehowa, District Kurukshetra	25 of Arms Act, 302, 120-B, 34 IPC (Sections 148, 149, 201, 303, 212 IPC added later on)

1. The petitioner who is a woman, incarcerated for trapping the deceased to the spot where her accomplices killed him, upon his arrest in the FIR captioned above, came up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.
2. In paragraph 26 of the bail petition, the accused declares that he has no criminal antecedents.
3. Petitioner’s contention is that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. State opposes the bail.

REASONING:

5. Facts of the case are taken from the reply dated 16.09.2023, filed by the State, which reads as under:-
 - “1. That the present case has been registered on the statement of Sonu son of Sh Rattan Singh resident of Village Kakrari, Tehsil and Police

CRM-M-41750-2023

Station Pehowa, District Kurukshetra and contents of the same are reproduced as under:-

"It is stated that I am resident of above said address and I am doing farming work. We have two brothers and one sister I and my sister Seema are married and my younger brother Monu aged 22 years still unmarried. Before some days ago Dilbag alias Baga son of Faqir Chand resident of Helwa along with his colleagues out of my residential house in Tur Colony Pehowa had fired and due to this reason we were having grudge with these people, today my brother Monu had come to Pehowa City for some work, I also come to Pehowa for some work. At around 3.45 PM my friends called me and told that Monu shot in front of Bohali Sahib Gurudwara Pehowa, who reached at the spot after receiving this information and saw that my brother Monu was lying on the road in Conscious state, who was shot in the left side chest and also got injury on the left leg below the knee and at that time, ambulance reached at the spot. I took my brother in Ambulance in LNJP Hospital, Kurukshetra where the doctor after checking my brother declared him dead. I inquired at my own level and came to know that my brother Monu had gone to Pehowa with Vikran alias Janu son of Sunil Kumar, resident of Pehowa on his motorcycle When they reached near Bohli Saheb Gurudwara Monu alighted from motorcycle and Vikrant was sitting on motorcycle. In the meantime a beige (dusty) colour car came and hit motorcycle from behind Two boys who were armed with pistols came out from car and fired shot in chest on my brother Monu which my brother caused dead My brother Monu has shot dead and pre-planned by Dilbag alias Bagga Ram Phal son of Nakli Rami, resident of Kakrali Rajdeep resident of Jhajhanpur Sandeep Saini resident of Bhagal District Kaithal, along with his friends. Legal action be taken against them. I take my statement and hear it which is correct Sd/- Sonu."

2. That on the basis of above said statement the present FIR no.38 dated 23.08.2020, under Sections 302, 34 IPC read with 120-B IPC and 25-54- 59 of Arms Act Police Station Pehowa, District Kurukshetra was registered During investigation of the present case Section 303 212 148 149, 201 IPC were also added in the present case. After registration of case intimation regarding registration of case was sent to higher authorities.

3. That after the incident the team of Scene of Crime was called and place of incident was inspected by the Scene of crime team. From the place of incident two blank cartridges of brass were taken and same were handed over to SI/ Station House Officer Prem Chand. On checking of cartridge it was found written on one empty cartridge 9MM and on second empty cartridge 7.63 and same were taken into police possession. After that police have got ruqa from the LNJP Hospital regarding the death of deceased Monu. Thereafter police went to LNJP Hospital Kurukshetra where complainant-Sonu met them and his statement was recorded and after that above said case was registered The proceedings of 174 CRPC were initiated and statements of witnesses were recorded at the place of incident. The site plan of place of incident was prepared. The motor cycle bearing registration No HR41C-1187 Marka Platina. Colour

CRM-M-41750-2023

Black was taken into police possession. On 24.08.2020 police went to LNJP Hospital Kurukshetra and after postmortem of body of deceased which was conducted by the boards of doctors of LNJP Hospital Kurukshetra, the dead body of deceased was handed over to the family members of deceased for cremation. Parcels were taken by the police ie one parcel of three X-Ray films one cloth parcel which was sealed with the seal of MS/1 and one parcel of one glass bottle which is containing the bullet Sikka which was taken out from the dead body of deceased by the doctors and above said parcels were taken into police possession and deposited with Malikhana Moharar of Police Station: The report of postmortem of deceased bearing no PMR No 403/20 dated 24.08.2020 also taken in which doctors given the following opinion regarding the cause of death of deceased Monu

"In our opinion the cause of death in the case due to injury to vital organs i.e. is Heart and Lung which are ante-mortem in nature and sufficient to cause death over ordinary course of events probable time that elapsed between injury and death is immediate ant between death and PME is with in 24 Hours".

The copy of postmortem report is enclosed herewith as Annexure R-1 for kind perusal of this Hon'ble Court.

4. Thereafter no clue was found regarding the culprits then case file was transferred to CIA-1 Kurukshetra for further investigation of the present case. After receipt of case file Sh Parteek Kumar Inspector/ Incharge CIA-1 Kurukshetra conducted the investigation of the present case and during investigation of the present case the call details of mobile no 96717-67397 of deceased was taken and as per call details of above said mobile phone the last call on the mobile no 96717-67397 was found of mobile no 83071-81340. After that call details of mobile no 83071- 81340 was also taken but owner of above said suspected mobile was not trace out from the ID of above said suspected mobile number. During investigation of the present case on the basis of secret information the accused/ present petitioner namely. Pinki daughter of Gopal resident of House no 349-50 Block F-7 Sultanpuri North West Delhi now residing on rent at House of Rekha Rani wife of Brahm Parkash resident of Sanjay Basti Cheeka near Power House Cheeka, District Kaithal was apprehended on 28 08 2020 from the Pehowa Bus Stand From the accused/ present petitioner Pinki the mobile phone marka Vivo 1803 and SIM no 83071-81340 was taken into police possession. The voice recordings of above said mobile phone were checked. On checking of voice recording of above said mobile phone of accused/ present petitioner Pinki it was found that on 23.08 2020 the present petitioner/ accused made telephonic calls on one suspected mobile no 97294- 41911 and she has gave information regarding presence of deceased Monu. The voice recordings were taken into Pen drive and Pen drive was sealed and taken into police possession The memos of recovery of above said pen drive and mobile phone marka 1803 Vivo and SIM Card no 83071-81340 were also signed by the present petitioner/ accused After that present petitioner/ accused was arrested on 28.08 2020 under pot of Palic Section 120-B IPC in the present case as per law. The disclosure statement of present petitioner/ accused was recorded separately. In her disclosure statement the present petitioner/ accused has disclosed regarding the present crime and also disclosed the names of accused persons namely, Sunil Kumar alias Lakha son of Om Parkash resident. of

CRM-M-41750-2023

Village Bhagal, District Kaithal, Dilbag alias Bhaga son of Fakir Chand resident of Village Helwa District Kurukshetra, Rajdeep son of Hankesh resident of Village Jajanpur, District Kaithal, Harikesh alias Tony Baba son of Kuldeep resident Village Shimla District Kaithal now residing at Sanjay Basti Cheeka, District Katihal Rajesh alias Khana son of Sewal Ram resident of Village Songal District Kaithal, Sarwan (present petitioner/ accused) son of Maan Singh resident of Village Keorak District Kaithal. Sandeep son of Tilk Raj resident of Cheeka. District Kaithal Navdeep alias Chhota son of Pawan Kumar resident of Village Jajwanti District Jind. The copy of disclosure statement of present petitioner/ accused is enclosed herewith as Annexure R-2.”

6. The evidence collected by the investigator against the petitioner are that she entrapped the deceased and for doing so, she got Rs.10,000/- from Dilbag. The evidence further points out that at that time, she was aware that the deceased would be killed by other co-accused. This Court comment on the quality of such evidence for the reasons that might seriously prejudice the prosecution of the accused. Suffice it to say that if the petitioner had not mislead the deceased and called him to the spot, his life have been saved. Although the petitioner is a woman but the nature of allegations are so heinous and magnitude is so massive that she is not entitled to bail.

6(a) Petitioner also claims bail on parity with Co-accused Sarwan Kumar, Sandeep and Rajesh Khanna, who were granted bail by this Court vide orders dated 09.02.2022, 23.12.2022 & 17.05.2023 respectively passed in CRM-M-4740-2021, CRM-M-14252-2022 and CRM-M-2829-2023. However, allegations against the petitioner are that she was responsible to brought the deceased to the place of occurrence and as per the State evidence points out that she was aware of such action, as such she is not entitled to bail on parity with such co-accused, who did not assault the deceased.

7. A perusal of the bail petition and the documents attached, prima facie points towards the petitioner's involvement and does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.

8. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

The petition is dismissed. All pending applications, if any, stand closed. However, considering the petitioner's right to speedy trial coupled with the pre-trial incarceration, this court requests the concerned trial court to make all endeavours to conclude the trial by January 31, 2024, of which the prosecution evidence be completed by November 30, 2023, and latest by the end of December 2023, and the remaining time to provide an opportunity to the accused to lead defence evidence, if so desired, and to conclude its

CRM-M-41750-2023

hearing. To meet the deadline, an endeavourbe made to speed up the process for service and to pass the necessary directions in this regard. It is clarified that if expediting this trial disturbs the docket of the concerned court, then a balance be struck, and if, on this account, any delay happens, then an extension can be sought by mentioning such reasons. It is clarified that this order speeding up the trial is subject to the condition that neither the petitioner shall seek any adjournment nor try to use any tactics to delay the trial. If they do so, this order of expediting the trial shall stand automatically recalled by resorting to Section 362, read with Section 482 Code of Criminal Procedure, 1973, without any further reference to this court. If any of the accused is on bail and fail(s) to attend the trial without any sufficient cause, then they be dealt with strictly but in accordance with law. It is clarified that if the trial is not concluded by the date mentioned above, and if the delay is not attributable to the petitioner, then the petitioner may file an application for bail before the trial court, which shall decide it expeditiously and consider the bail on the grounds of pre-trial custody, and all the previous orders of dismissal passed by the trial court or High Court shall not come in the way.

(ANOOP CHITKARA)
JUDGE

19.10.2023
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.