

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

CRM-M-46050-2022
Date of Decision: 31.05.2023

Vicky

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ramnish Puri, Advocate
for the petitioner.

Mr. Amrik Narwal, D.A.G., Haryana.

HARSH BUNGER, J.

Petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail, in case FIR No.345 dated 23.11.2021, registered under Sections 148, 149, 323, 325, 452 and 302 of the Indian Penal Code (for short 'the IPC'), at Police Station Julana, District Jind.

2. Pursuant to the advance copy of petition having been served upon learned State counsel, status report by way of an affidavit of Sh. Ravi Khundia, Deputy Superintendent of Police, Jind-Detective, District Jind on behalf of respondent-State, has been filed, which is already on record.

3. Custody certificate dated 25.03.2023 of the petitioner has been filed by learned State counsel, which has been taken on record vide order dated 27.03.2023.

4. Briefly, the afore-said case FIR was registered on the complaint of one Rajesh son of Raj Kumar, resident of Nidana, Tehsil and District Jind, stating therein that on 22.11.2021, he had come to his Village

Garhwali, to meet his maternal uncle namely, Jagdish son of Rajbir and around 5:00 p.m., the complainant along with his maternal uncle-Jagdish, went to the latter's fields on the motorcycle to see the crop. It was stated that while both of them were lying in the room (*Kotha*) made in the fields, then at around 9:00 p.m., Raj Kumar son of Puran, belonging to the family of his maternal uncle (*Mama*) along with his two sons namely, Deepak and Sunil alias Tota, his wife and daughter, came inside the room by carrying *gandasa*, *gelwa*, *binda* and *iron rods* in their hands and started beating the complainant and his maternal uncle (*Mama*) with the said weapons. It is stated that upon hearing the noise, Ashish son of Satish, came to the spot and informed the family of complainant's mama about the quarrel and when his mama's family came to the field at the spot, then Raj Kumar and his family fled away from the spot with their respective weapons. Thereafter, a vehicle was arranged and the complainant along with his mama (Jagdish) were brought to CHC Julana for treatment, where first aid was given to them and thereafter, both of them were referred to PGIMS, Rohtak; where the doctor declared Jagdish son of Rajbir, as dead. However, the complainant was discharged after the treatment. On the basis of afore-said allegations, the FIR in question was registered.

5. Learned counsel for the petitioner submitted that the petitioner is a young girl of 21 years of age and has been falsely implicated in the present case. It is submitted that there was a delay in registration of the FIR. Learned counsel for the petitioner further submitted that no specific injury has been attributed to the petitioner and neither she had caused an injury to anyone as she was not even present at the spot at the time of alleged occurrence; hence, no offence under Section 302 IPC is made out against

her. It is submitted that in fact, the petitioner has not even been named in the FIR and neither any specific weapon has been attributed to her. It is further submitted that the entire family of the petitioner has been roped in illegally and arbitrarily by the complainant so as to harass and humiliate them. It is next submitted that the petitioner was arrested in this case on 26.11.2021 and since then, she is in custody and has undergone more than one year and four months (as on 25.05.2023). Learned counsel for the petitioner submitted that the investigation in this case is complete; challan stands presented before the Court and even the charges have been framed. It is submitted that there are total 28 prosecution witnesses, out of which, 10 prosecution witnesses have been examined and one has been given up being unnecessary. It is submitted that the trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period. Learned counsel for the petitioner submitted 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.

6. Per contra, learned State counsel has opposed the present petition for grant of regular bail to the petitioner on the ground of seriousness and gravity of offence. It is submitted that as per the postmortem report, total of 19 injuries were detected on the body of the deceased. Learned State counsel submitted that the petitioner suffered a disclosure statement and got recovered one wooden *Binda*, allegedly used in the commission of the crime and has further demarcated and identified the place of occurrence. While referring to para No.11 of the status report, learned State counsel has submitted that the petitioner has actively participated in the commission of offence and during the course of investigation, it has been

found that the petitioner along with her father, mother and brothers had committed murder of Jagdish and had caused injuries to complainant Rajesh. It is submitted that the weapon (*binda*) used in the commission of offence was recovered at the instance of the petitioner. However, learned State counsel has not disputed the fact that the petitioner has been in custody for the last more than one year and four months, as on 25.03.2023. Investigation in this case has been completed; challan stands presented; charges have been framed and out of 28 prosecution witnesses, 11 prosecution witnesses have been examined. It is further not disputed that apart from the present case, there is no other case pending against the petitioner.

7. I have heard learned counsel for the parties; perused the paper book; status report as well as the custody certificate of the petitioner filed by learned State counsel.

8. The petitioner is a young girl of around 21 years of age who has been in custody for the last more than one year and four months (as on 25.03.2023). A perusal of the FIR reveals that no specific injury has been attributed to the petitioner and only general allegations regarding assault by the family members of the petitioner have been made. As per status report, the investigation in the case is complete; challan stands presented; charges have been framed and out of total 28 prosecution witnesses, 11 prosecution witnesses have already been examined. Thus, the trial will take some time to conclude. There is no other case against the petitioner.

9. Keeping in view the afore-mentioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to her furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, before

release, the concerned Station House Officer be informed and the petitioner shall inform the concerned Station House Officer about her address at which she intends to reside during the pendency of the case and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish her telephone number to the concerned Station House Officer.

10. In addition, the petitioner (or any one on his behalf) shall prepare a Fixed Deposit Receipt in the sum of Rs.50,000/- and deposit the same with the trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. Nothing expressed here-in-above 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.

12. The petition is accordingly disposed of.

May 31st, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No