

CRM-M-46678-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 12.10.2023

Manika Devi

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sushil Kumar Verma, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (Oral)

This is third foray of the petitioner seeking her release as an undertrial in a case with FIR No. 0077 dated 14.04.2020, registered under Sections 302, 201, 120-B of the Indian Penal Code at the Sadar Dadri Police Station in Charkhi Dadri. Her earlier two petitions were dismissed as withdrawn on 05.10.2020 and dismissed on merits vide order dated 04.07.2023.

2. Per the prosecution, a case was registered on the complaint of Sunil, the son of Dayanand, a resident of the village of Charkhi. The allegations state that on 10.04.2020 at 4:00 p.m., Sunil's younger brother, Pardeep, after informing his wife and son, went to Dadri to meet Master Jaibir in a vehicle with the registration number HR-19-H-6122, a Beat. At around 7:00 p.m., Master Jaibir informed Pardeep's wife via mobile phone that an accident had occurred involving the said vehicle. Soon after, the complainant and his family members rushed to the Government hospital in Dadri, only to discover that the dead body of Pardeep lay on a stretcher. The attending doctor confirmed that he was brought in dead. Master Jaibir was present and disclosed that the accident had occurred on Kaliyana road due to a cow. Upon inspecting the vehicle parked in the hospital campus, the complainant found no signs suggesting that his brother, Pardeep, died in a motor

vehicular accident. The complainant grew suspicious that Master Jaibir Singh had committed his brother's murder in a pre-planned manner. With these allegations, an FIR was initially lodged under Section 302 and 201 of the IPC. 2.1 During the investigation, the accused, Jaibir, was arrested. In the course of interrogation, Jaibir made a disclosure statement implicating the petitioner. The petitioner was subsequently arrested on 23.04.2020, and Section 120-B of the IPC was added.

3. The learned counsel for the petitioner contends that the petitioner was not named in the FIR, nor was any overt act attributed to her. The prosecution's case relies on circumstantial evidence, with no other corroborating evidence against the petitioner, aside from the disclosure statement of the co-accused, Jaibir Singh.

3.1 Furthermore, there is no evidence on record connecting the petitioner to the alleged murder of her own husband. Moreover, from the statements of prosecution witnesses on record, no incriminating material suggests that the petitioner conspired with the co-accused for the alleged murder or had any remote connection to the same.

3.2 Additionally, there is a delay of four days in lodging the FIR, which raises suspicion of the petitioner's false implication. The petitioner's counsel also contends that there is no need for further custodial interrogation, as nothing remains to be recovered from her. Furthermore, there is no indication that the petitioner would tamper with evidence or influence prosecution witnesses.

3.3 It is also noted that the charge sheet has already been submitted, and the trial is expected to take a considerable amount of time. Consequently, it is argued that there would be no purpose served in keeping the petitioner in custody.

4. The learned State counsel opposes the petitioner's bail application, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He submits that petitioner has committed serious

offence and has played an active role in the incident. If enlarged on bail, there is every likelihood that petitioner will evade trial. He submits that petitioner was having illicit relations with co-accused Jaibir Singh and both connived in the commission of the offence.

5. I have heard the rival arguments and reviewed the case file.

6. In response to a query from the Court, it transpires that the investigation against the petitioner has been completed, and charges were framed on March 22, 2021. At this stage, the allegations against the petitioner are subject to trial. Of the forty three prosecution witnesses, thirty have been examined so far. The trial is anticipated to take some amount of time. Bail serves the purpose of allowing an accused to remain free until their guilt or innocence is determined. In contrast, the petitioner has been in detention since April 23, 2020, for more than three years and six months.

7. The petitioner's continued preventive custody is based on an unsubstantiated suspicion that he might tamper with evidence or influence witnesses.

8. Petitioner is stated to be 38-year old woman with the additional duty of caring for her two children, which are currently living in dire poverty in her absence. As a responsible family person and a stable residence, the petitioner is unlikely to pose a flight risk or evade trial proceedings.

9. Considering the overall scenario, without commenting on merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail on her furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where her case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

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11. In case, petitioner is found involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of her bail in the instant case.
12. It is made clear that any observations and/or submissions noted hereinabove shall not have any effect on merits the case as the same are for the limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 12, 2023
Ajay

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