

CRM-M-49903-2022

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2023:PHHC:062890

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

CRM-M-49903-2022

DECIDED ON: 02.05.2023

Nargis @ Afsana

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr.Parveen Sharma, Advocate, for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

GURBIR SINGH, J

Prayer in this petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case bearing FIR No.156 dated 04.05.2019, under Sections 201/302, 34 IPC and Section 25 of Arms Act, 1959, registered at Police Station Kundli, District Sonipat (Annexure P-1).

This case was registered at the instance of complainant Anup Garg, who has stated that he is running a brick klin under the name of Vansh Brick Klin in village Mallah Majra, where Islam along with his wife Afsana and their children, Deepak along with his parents and Mustak along with his brother were residing since the last about one year and were working in the brick klin. It is alleged that a few days back he had heard that Afsana wife of Islam is having illicit relations with Deepak and Mustak. He further stated that on 03.05.2019, Deepak and Mushtak had taken Islam on their motorcycle from the brick klin at about

09:30 pm. On the next day, he came to know that Mushtak and Deepak had murdered Islam and had thrown his dead body and motorcycle in a canal. It is further the case of prosecution that the dead body of Islam as well as motor-cycle was recovered on 04.05.2019 from a canal near village Malla Majra. Later on he came to know that Deepak and Mustak fled away along with the wife of Islam namely Afsana (petitioner).

Learned counsel for the petitioner submits that co-accused Mustak is already granted regular bail by a Co-ordinate Bench of this Court vide order dated 14.10.2021, passed in CRM-M-42825-2021. Petitioner has neither caused any injury nor was present when injuries were given to the deceased. She has been falsely implicated and is in custody since 27.06.2019. As per the status report, eighteen witnesses out of twenty three have only been examined and completion of trial will take long time.

Learned State counsel has opposed the petition and submitted that co-accused Deepak @ Ghoni developed illicit relations with the petitioner, who conspired with co-accused and in pursuance of that petitioner handed over the country made pistol and two live cartridges of her husband Vajid @ Kala to Deepak @ Ghoni and Mustak took her husband by telling him to get purchased inverter for him and thereafter Deepak @ Ghoni fired at her husband and killed Vajid @ Kala. He has submitted that as per the custody certificate dated 25.02.2023, petitioner is in custody for the last three years, seven months and twenty nine days.

Heard.

Case of the prosecution is based on circumstantial evidence. The prosecution relied upon the version of the complainant Anup Garg, who is the author of the FIR but in the trial he did not support the case of the prosecution against the co-accused Mustak. The allegations against the petitioner are that she conspired with other accused. There is no allegation of the prosecution that she had given any injury to her husband. Moreover, she was not present there at the spot. She is in custody for the last more than three years and ten months. Five remaining prosecution witnesses are yet to be examined; the trial of the case is going at slow speed. Main allegation is against the accused Deepak @ Ghoni, co-accused of the petitioner, who had given fire arm injury to the deceased. Keeping in view of the custody and trial will take long time, petitioner is entitled for bail.

Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on her furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/CJM/Duty Magistrate, concerned.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

02.05.2023
mamta

(GURBIR SINGH)
JUDGE

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