

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

CRM-M-57153-2022 (O&M)
CRM-17392-2023
Date of Decision: 28.04.2023

SEEMA

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Rakesh Sobti, Advocate
for the petitioner.

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

HARSH BUNGER, J. (ORAL)

CRM-17392-2023

This is an application for placing on record the *zimini* orders as
Annexure P-3.

Criminal Misc. Application is allowed, as prayed for and
Annexure P-3 is taken on record, subject to all just exceptions.

CRM-M-57153-2022

The petitioner has filed the present petition under Section 439
of the Code of Criminal Procedure, seeking regular bail in case FIR
No.0114 dated 06.04.2021, registered under Sections 302, 404 and 449 read
with Section 34 of the Indian Penal Code, 1860, at Police Station Asauda,
District Jhajjar.

2. Pursuant to the advance copy of petition having been sent to
learned State counsel, Mr. Amrik Narwal, Deputy Advocate General,
Haryana, appeared and filed status report dated 02.03.2023 by way of an

affidavit of Sh. Amit Yashvardhan, IPS, Additional Superintendent of Police, Badli, District Jhajjar, on behalf of the respondent-State of Haryana, which is already on record.

3. Briefly, the afore-said case FIR was registered on the statement of one Jagpal, who stated that they were five brothers, out of whom, the eldest one was Rajpal, who died 4-5 years ago. As per the complainant, his elder brother Rajpal, had two sons and two daughters, out of whom, the eldest one was Pradeep. On dated 06.04.2021, at around 04:00 a.m., the complainant is stated to have heard the sound of quarrel from the room of his nephew Pradeep; whereupon, he came out of his house and saw that his nephew Pradeep came out of his room and ran towards the main street by saying “*bachao bachao*”. According to the complainant, he saw that behind his nephew, Ajay and his father Rajesh of Village Luharhedi and one another boy was running and all of them had caught his nephew Pradeep near the house of the complainant’s younger brother Rampal and within his view, Ajay hit Pradeep with a sharp object like a knife in his hand; whereupon, his nephew fell on the ground and all three gave beatings to his nephew while he was lying on the ground. Thereafter, it is stated that the complainant along with his nephew Vijay son of Jaipal and the neighbours of the village came at the spot and upon seeing them, Ajay, Rajesh and one another boy, left their scooty bearing Registration no. DL-95BV-0221 at the spot and ran away with their weapons. It is alleged that apart from the above-said persons, three other boys were also with them, who fled on a motorcycle from Phirni road towards Village Luharhedi. As per the complainant, when he went to his nephew’s room then he saw that the blood was scattered on the floor and in the street also. Thereafter, the complainant along with his nephew Vijay

arranged for the vehicle and brought Pradeep to hospital at Rohtak; whereby the doctor declared his nephew as 'dead'. Accordingly, the above-said case FIR was registered by the complainant for killing his nephew against Ajay, Rajesh etc.

4. On 06.04.2021, during the course of investigation of the afore-said FIR, Rajesh son of Dalip Singh and Ajay son of Rajesh resident of Luharhedi, were arrested. As per Status report, Rajesh son of Dalip Singh and Ajay son of Rajesh got recorded a supplementary disclosure statement and disclosed about the presence of the present petitioner (Seema) at the place of occurrence. Petitioner (Seema) is stated to have been arrested on 10.04.2021.

5. The petitioner applied for regular bail before the Court of learned Additional Sessions Judge, Jhajjar; however, the same was dismissed vide order dated 24.12.2021 (Annexure P-2). Accordingly, the petitioner has filed present petition before this Court.

6. Learned counsel for the petitioner submits that the petitioner has not been named in the FIR. It is stated that as per the prosecution case, it was Rajesh and one un-known person, who had caught hold of deceased Pardeep and one Ajay hit him with a sharp knife in his hand. No overt act has been ascribed to the present petitioner in the FIR. Learned counsel for the petitioner further submits that the petitioner is an innocent lady and has nothing to do with the alleged offence. It is further submitted that nothing has been recovered from the petitioner and she was arrested on the basis of disclosure statement of co-accused Ajay, who had stated that she also accompanied them while going to the house of deceased Pardeep in search of daughter of Rajesh namely Muskan and when Rajesh opened the door of the house of Pardeep, then her niece Muskan and Pardeep were found there

and she gave slaps/fists blow to the deceased Pardeep. It is submitted that the petitioner was neither apprehended at the spot nor she was present at the spot of incident. It is next submitted that the petitioner has nothing to do with the alleged offence and there is no iota of evidence against her which show her involvement in the crime. Learned counsel for the petitioner further submits that the challan has already been presented on 03.08.2021; charges were framed on 29.11.2021; the petitioner has been in custody since 10.04.2021; there are total 33 prosecution witnesses and trial will take some time to conclude; accordingly, prayer for grant of regular bail has been made.

7. Per contra, learned counsel appearing for the respondent-State of Haryana, has opposed the prayer of bail made by the petitioner on the ground of seriousness and gravity of offence. It is stated that petitioner is facing trial for murder of Pradeep son of Rajpal, which is a serious and a heinous offence.

8. Learned State counsel, while referring to para No.10 of the status report, submits that during the course of investigation on 06.04.2021, co-accused Rajesh son of Dilip Singh and Ajay son of Rajesh resident of Luharhedi, were arrested and on 08.04.2021 they got recorded a supplementary disclosure statement and disclosed about the presence of the present petitioner namely Seema at the place of occurrence. It is submitted that as per the supplementary disclosure statement of co-accused Ajay, a weapon like Iron knife and the clothes, which were worn during the offence, were recovered and the demarcation of the place of occurrence was done. It is submitted that during the course of investigation on 10.04.2021, as per the disclosure statements of co-accused Rajesh and Ajay, Seema (present petitioner) daughter of Dilip Singh wife of Anil resident of

Valmiki Vihar, Nasirpur Road, Palam, Delhi, was arrested and her disclosure statement was recorded and demarcation of the place of occurrence was carried out. It is further submitted that during the course of investigation, CDR of the mobile numbers of the arrested accused Ajay, Rajesh, the present petitioner-Seema, deceased Pradeep and daughter of the co-accused Rajesh namely Muskan was obtained.

9. As per the status report, the present petitioner was physically present at the place of occurrence along with co-accused and was actively involved in beating up the deceased by slaps and fist blows with the common intention to kill the deceased. It is further submitted that the vehicle Scooty bearing Registration no.DL-9SBV-0221 on which the present petitioner and co-accused went to the place of occurrence is in the name of husband of the present petitioner, which was recovered outside the place of occurrence. Accordingly, prayer for dismissal of the present petition has been made.

10. I have heard learned counsel for the parties and also perused the paper book along with status report filed by learned State counsel.

11. In the instant case, petitioner (Seema) is an accused along with others for the alleged murder of one Pradeep son of Rajpal, which is stated to be witnessed by the complainant Jagpal. As per Status Report, during the course of investigation on 08.04.2021, co-accused Rajesh son of Dilip Singh and Ajay son of Rajesh resident of Luharhedi, recorded a supplementary disclosure statement and disclosed about the presence of the present petitioner (Seema) at the place of occurrence, whereupon Seema (present petitioner) was arrested on 10.04.2021 and her disclosure statement was recorded and demarcation of the place of occurrence was carried out.

Further, during the course of investigation, as per Status Report, CDR of

the mobile numbers of the arrested accused Ajay, Rajesh, the present petitioner-Seema, deceased Pradeep and daughter of the co-accused Rajesh namely Muskan was obtained. The present petitioner is stated to be physically present at the place of occurrence along with other co-accused and was actively involved in beating up the deceased with the common intention to kill the deceased. Still further, the Scooty bearing Registration no.DL-9SBV-0221, which is stated to be in the name of husband of the present petitioner, was recovered outside the place of occurrence. Thus, there is prima facie ground to believe that the petitioner alongwith other co-accused had committed the offence.

12. It is submitted by the counsel for the petitioner that the petitioner has been in custody since 10.04.2021, hence on the basis of long incarceration in jail, she is entitled to be released on bail, especially when the charges have also been framed and the trial is unlikely to conclude in near future. However, in my considered opinion, the petitioner cannot be released on bail solely on the basis of long incarceration in jail or on the ground that the trial is not likely to be concluded in near future; especially when the petitioner is being tried for a serious and heinous offence of murder of one Pradeep. 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 entitled 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."

13. Keeping in view the above said facts and circumstances and also looking at the gravity of the offence, the petitioner in the present case is not entitled for grant of regular bail. Accordingly, the present petition under Section 439 Cr.P.C. seeking grant of regular bail to the petitioner (Seema) in case FIR No.0114 dated 06.04.2021, registered under Sections 302, 404 and 449 read with Section 34 of the Indian Penal Code, 1860, at Police Station Asauda, District Jhajjar, is dismissed.

14. Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

15. Pending application/s, if any, shall also stand disposed of.

April 28, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No