

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105+229

CRM M-1253 of 2024 (O&M)
Date of Decision: 24.04.2024

Munesh ...Petitioner
Versus
State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. K.S.Virk, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.463 dated 29.06.2023 registered under Sections 302 and 34 IPC at Police Station City Narnaul, District Narnaul.
2. The FIR in the present case was registered on the basis of the complaint filed by Inspector Sharda and the same is reproduced below:-

“To the SHO Police Station Narnaul City.

Sir it is submitted that on 29.06.2023 at about 12:50 AM, ASI Satish Kumar No. 59/NNL brought the accused Panchsheela De D/o Pranav De r/o Janama Hubli West Bengal, presently residing at 67A Chandan Vihar, New Delhi to the Women Police Station, Narnaul after arresting in the FIR No. 112 dated 23.06.2023 under

section 379 and 420 IPC registered at Police Station, City Kanina. DDR No. 2 dated 29.06.2023 was got registered in this regard. The accused was put under the surveillance of L/CT Munesh No. 156/NNL PS Kanina, L/CT Priyanka No 761/NNL, Police Line, Narnaul and SPO Mahipal No. 271/NNL was on the guard duty. At around 6:50 AM, the Complainant Sharda, Inspector/SHO Police Station Women Narnaul received a telephonic information by LAST Shakuntla No. 829/NNL about accused Panchsheela De that the accused tried to flee at around 4:50 AM who was prevented by both of the police officials along with SPO Mahipal No. 271/NNI, where a scuffle took place. On worsening the condition of the accused, she was taken to GH Narnaul where she was declared as dead by the medical officer. The accused died due to the injuries inflicted by the police officials and others. The son of the accused namely Royas aged 2.5 years was also with the accused at that time. The legal action must be taken against the aforesaid accused. The information of the aforesaid incident was given to the higher police officials through telephone.

SD/INSP SHARDA/”-

3. Learned counsel for the petitioner contends that Panchsheela De, an accused was confined in Police Station Women, Narnaul, after she was formally arrested by the police for an offence. At about 04.11 a.m., on 29.06.2023, she bolted the door of the room, wherein four lady constables, including the present petitioner were present, took a stick (danda) and tried to escape from the police station. SPO Mahipal, who was present outside the room, tried to stop her from escaping from the police station and on hearing his noise, other police officials also woke up and they unlocked the door of the four lady constables. A scuffle had taken place between Panchsheela De, accused and SPO Mahipal and thereafter all the four lady constables tried to control Panchsheela De. Panchsheela De had slapped, Mahipal, SPO, on this, SPO, took a *Danda* and caused beatings to her in order to control her. Learned counsel for the petitioner submits that even though the petitioner was present in the police station, but there is no allegation that the petitioner had caused any injury to Panchsheela De and she was wrongly arrested in the present case on 29.06.2023 itself.

4. Learned counsel for the petitioner further submits that in the present case most of the material witnesses have already been examined and there are no chances of tampering with prosecution evidence. Learned counsel for the petitioner has further referred to the testimony of PW3 Dr. Amit Kumar, Medical Officer, Government Hospital, Narnaul, who was part of the board of doctors, who had

conducted the postmortem examination on the dead body of Panchsheela De. As per the said doctor, the following injuries were suffered by Panchsheela De:-

“(I) Multiple, reddish blue coloured contusions of size ranging from 6 cm x 2 cm to 12 cm x 3 cm present all over both buttocks, back of both thighs, outer aspects of both thighs, outer half of front of both thighs. On fine dissection of contusions there was massive extravasation of blood in subcutaneous tissue and muscular tissues. On cut section large amount of blood was oozing.

(II) Reddish blue contusion of size 10 cm x 6 cm present over left side chest, over anterior axillary fold”.

5. As per the opinion of the doctor, the cause of death in the present case was shock as a result of antemortem injuries sustained to multiple body parts caused by blunt force impact.

6. Learned counsel has extensively referred to the cross-examination conducted by the learned defence counsel on PW3 Dr. Amit Kumar and the said doctor had clearly admitted that there was no injury on the vital organ of the body. Still further, in the present case, none of the injury mentioned in the postmortem report was individually responsible for causing the death. In ordinary course of nature, none of the injury mentioned in the PMR was sufficient to cause death individually. Thus, learned counsel submits that even from the ocular account as well as from the medical evidence, it stood

established that the accused had no intention to commit the murder of Panchsheela De and the injuries were caused by certain other police officials, just to prevent her from escaping from the lawful custody of the police station. He further contends that in the present case, even after the examination of 12 witnesses, the prosecution has not been able to produce any witnesses, who could prove the complicity of the petitioner in the commission of the crime. Rather, from the testimonies of various prosecution witnesses, which were placed on record, it was evident that the participation of the petitioner in the alleged commission was highly doubtful and she had no reason to cause the death of Panchsheela De, since deceased. Learned counsel further contends that the petitioner is a young and rustic villager and is an unmarried girl. She was recruited as a Constable in Haryana Police on 06.03.2019 and had been performing her duties as per law and there was no allegation against her and was never involved in any criminal activity in the past. Even, no complaint was ever received by the higher police officers against her. Apart from that, since the material witnesses had already been examined, there were no chances of tampering with the prosecution evidence and she was not likely to flee from the process of the law. Thus, the petitioner was entitled to concession of bail by this Court.

7. On the other hand, learned State counsel has vehemently opposed the submissions made by the petitioner on the ground that very serious allegations have been levelled against the petitioner and

her co-accused, who had caused serious injuries to Panchsheela De and she succumbed to the injuries suffered by her in police custody. Still further, the petitioner was posted in the same police station and had actively participated in the crime. Thus, she does not deserve the concession of bail by this Court.

8. I have heard the learned counsel for the parties and perused the record.

9. In the present case, no doubt, the allegations levelled by the prosecution point towards the seriousness of the allegations, but apart from the seriousness of the offence, a Court has to take into account various other considerations, viz., circumstances in which the offence was committed; character of the evidence; circumstances which are peculiar to the accused; a reasonable apprehension of witnesses being influenced; evidence being tampered with and larger interest of the public or State etc.,. In fact, so many variable factors and the consideration weigh with the Court, which cannot be exhaustively set out. However, apart from seriousness of the offence, two considerations are paramount and the same are (a) the likelihood of the accused fleeing from the justice and (b) likelihood of accused tampering with the prosecution evidence and Court has to bestow due and proper weight on these two factors. In case, the Court comes to the conclusion that there are reasonable grounds to believe that the accused would not flee from the justice and will not tamper with the

prosecution evidence, he can be granted the bail in such cases after suffering a sufficient long custody.

10. Apart from that, the object of the bail is to secure the attendance of the accused at the trial. The principle rule to guide the release on bail should be to secure the presence of the applicant to take a judgment and to serve the sentence in the event of the Court punishing him with the imprisonment and the Court have always deprecated the longer period of incarceration facing trial.

11. In the present case, the petitioner, who is young unmarried girl was recently employed in Haryana Police and no complaint was ever received against her in the past. Even, Dr. Amit Kumar, Medical Officer clearly stated in his cross-examination that there was no injury on any of the vital organ of the body of Panchsheela De, since deceased. As per the said doctor, none of the injury mentioned in the PMR was individually responsible for causing the death and in the ordinary course of nature, none of the injury mentioned in the PMR was sufficient to cause death individually. Apart from that, at this stage, the prosecution is under an obligation to prove the conclusive evidence during the course of the trial to show that the petitioner had the intention to cause the murder of Panchsheela De, in order to sustain the charge against her. However, at this stage, the prosecution has not been able to indicate any material to suggest that the petitioner may flee from the process of justice or may tamper with the prosecution evidence.

12. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner is involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties

and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report on every 1st Monday of English calender month to the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the Rojnamcha.

In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to her shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

24.04.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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