

CRM-M-5849-2024 (O& M)
(216-2)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CRM-M-5849-2024 (O & M)
Date of decision: 12.03.2024

Gurwinder Kaur Petitioner
V/s
State of Punjab ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI
Present: Mr. Raj Kumar Gupta, Advocate, for the petitioner.
Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this second petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in case FIR No.51 dated 25.05.2022 under Sections 302, 120-B IPC and Section 25 of the Arms Act, 1959, registered at Police Station Sadar Banga, District SBS Nagar.

2. The present FIR came to be registered at the instance of Kiranjot and reads as under:-

"Statement of Kiranjot wife of Amarjit Singh, resident of village Salh Kalan, PS Sadar Banga, District SBS Nagar, aged about 36 years, Mobile No. 98554-43123. Stated that I am resident of above mentioned address and doing household work. My marriage was solemnized about 13/14 years ago with Amarjit Singh son of Gurmit Singh, resident of Salh Kalan. I have four children, out of whom 3 are daughters and one son. My elder daughter Mehakpreet Kaur is aged about 12 years. Today on 25.05.2022 at about 11:00 a.m., I along with my husband was present in our house and there was knocking on our gate. My daughter Mehakpreet Kaur stated that two youths had come outside on a motorcycle and were asking about her father. At that moment, my husband went outside to the gate and both the

youths stated that they had been sent by Mika of our Village and at that very time, both the youths took away my husband on their motorcycle. After sometime, we came to know from some villagers that my husband had been shot dead near the cremation ground situated near the link road of Balon, whereupon I alongwith Sodhi son of Raghubir Singh reached the spot and I noticed upon reaching that my husband was lying on the road. I got very disturbed on seeing the dead body of my husband and many residents of the village had gathered at the spot. I am sure that the two youths who had come to our house on a motorcycle have committed the murder of my husband by shooting him. Action be taken against both those youths. I have got my statement recorded which has been read over to me and is correct. Sd/-Kiranjot abovesaid."

3. On 27.05.2022, the complainant got recorded her supplementary statement stating that her husband-Amarjit Singh (deceased) had been killed by the accused on account of a property dispute between him (deceased) and his sister-Mandeep Kaur. Based on the said statement, Section 120-B IPC was added and Mandeep Kaur was nominated as an accused.

The statement of Hargurbhagwant Singh was recorded wherein he stated that Mandeep Kaur had made an extra judicial confession before him admitting her guilt.

Mandeep Kaur was arrested and got recovered Indian currency notes of Rs.35,000/-. She also disclosed the manner in which the occurrence took place naming Gurwinder Kaur (petitioner) who helped her to contact Lakhvir Kumar @ Lakha to commit the offence in question.

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At the instance of Lakhvir Kumar @ Lakha, Mandeep Kaur and Gurwinder Kaur contacted Sarabjit Singh @ Sabhi who committed the offence alongwith his co-accused Sanjay Kumar @ Sanju.

The petitioner-Gurwinder Kaur transferred an amount of Rs.37,000/- into the bank account of Sarabjit Singh @ Sabhi through her son-in-law/Gurpreet Singh on the asking of Mandeep Kaur.

The investigation also revealed that the petitioner-Gurwinder Kaur was in contact with Sarabjit Singh @ Sabhi through her mobile phone on the date of occurrence.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The only piece of evidence available against her was the confessional statement of the arrested accused-Mandeep Kaur. Merely because there was evidence of money having been transferred by the petitioner into the account of her son-in-law and a further transfer into the account of Sarabjit Singh @ Sabhi did not establish her guilt beyond reasonable doubt. Further, being in contact with Sarabjit Singh @ Sabhi on the date of the murder through her mobile phone also did not inculcate her in any manner. Though, the instant petition was the second one on behalf of the petitioner, however, as she was a lady, in custody since 02.06.2022 but only 06 out of the 34 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, she was entitled to the concession of bail.

5. The learned counsel for the State, on the other hand, has filed a reply dated 06.03.2024 which is taken on record. While referring to the said reply, he contends that Mandeep Kaur was arrested and named the petitioner

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as a conspirator alongwith her. As per the prosecution case, it was the petitioner who introduced Mandeep Kaur to Lakhvir Kumar @ Lakha who further introduced the accused to Sarabjit Singh @ Sabhi and it was Sarabjit Singh @ Sabhi alongwith his co-accused Sanjay Kumar @Sanju who had shot and killed the deceased. Call detail records and bank transactions conclusively established the guilt of the petitioner. Therefore, she was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 02.06.2022 and that only 06 out of the 34 prosecution witnesses had been examined so far.

6. I have heard the learned counsel for the parties.

7. The veracity of the prosecution case against petitioner and her co-accused shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is a lady and a first-time offender. She is in custody since 02.06.2022 and only 06 of the 34 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Gurwinder Kaur is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that she is not involved in any other case/crime other than the present one.

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10. If any attempt whatsoever is made by the petitioner and/or her family members/friends to contact/threaten/intimidate any of the witnesses of the present occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.
11. In addition, the petitioner (or anyone on her behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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.
12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 12, 2024
sukhpreet

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