

2024:PHHC:097764



2024:PHHC:097765



S. No. 210

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 31.07.2024

1. CRM-M-6535 of 2024

Akhtari

.....Petitioner

Vs.

State of Haryana

.....Respondent

2. CRM-M-7285 of 2024

Rani

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Siddarth, Advocate for the petitioners
in both the cases.

Mr. R.K.S. Brar, Addl. AG, Haryana.

DEEPAK GUPTA, J.

In the two petitions titled above, both filed under Section 439 Cr.P.C, petitioners pray for their release on regular bail in case FIR No.213 dated 18.07.2022 registered under Sections 302, 34 and 120B IPC at Police Station Barara, District Ambala.

2. For petitioner – Akhtari, it is her second petition as first petition bearing CRM-M-29490 of 2023 is stated to have dismissed as withdrawn.

2024:PHHC:097764



CRM-M-6535-2024

CRM-M-7285-2024

2024:PHHC:097765



3. Deceased in this case is Smt. Sitara. The two petitioners are daughters-in-law of the deceased. Complainant – Saleem Khan is the husband of petitioner – Akhtari; whereas the other petitioner – Rani is the wife of Nishar Khan, the brother of complainant i.e. other son of the deceased.

4. FIR was lodged on 18.07.2022 by complainant Saleem Khan as per which he was informed on 26.05.2022 by his wife Akhtari that his mother Sitara had died having fallen from a bed. Though his father told that Sitara herself did not fall from the bed and some incident was caused by the two petitioners but the complainant did not raise any suspicion at that time and the dead body of Sitara was buried. After some days, complainant became suspicious about the death of his mother – Sitara. He checked CCTV footage and decided to get the post mortem on the dead body done. He also alleged that on seeing the CCTV footage, petitioner Akhtari also admitted that she along with Rani had committed the murder of Sitara by strangulating her with the help of a cushion. FIR was registered. After taking necessary permission from the concerned authority, the dead body was exhumed. Post mortem examination was got conducted. Cause of death was initially preserved till receipt of chemical and histopathological examination. Petitioner – Akhtari was arrested on 28.09.2022 and Rani was arrested on 29.09.2022 respectively. On the basis of disclosure statement suffered by Akhtari, pillow used in the crime was recovered. After examining the recovered pillow and the post mortem report, the Medical Officer opined on 04.10.2022 that fracture mentioned as injury No.1 in the PMR could result due to smothering by pillow and that smothering by way of pillow was possible. After

2024:PHHC:097764



CRM-M-6535-2024

CRM-M-7285-2024

2024:PHHC:097765



completion of investigation, final report under Section 173 Cr.P.C was prepared in which prosecution cited as many as 28 witnesses.

5. It is contended by learned counsel that the two petitioners have been falsely implicated. Although death of Sitara took place on 26.05.2022 but FIR was lodged after approximately two months on 18.07.2022 on the basis of suspicion. Not only this, the pillow allegedly used in the crime was recovered on 28.09.2022 i.e. after more than four months of the death of Sitara and it is highly improbable that petitioner will keep the pillow with saliva of the deceased on it after a period of more than four months, in case it had been used for committing the murder.

6. Besides, learned counsel for the petitioners has drawn attention towards the statement of Nishar Khan, the brother of complainant, who during trial stated that he and his brother Saleem Khan had given divorce to their wives on 17.06.2022 and and that it is due to misunderstanding that the FIR was lodged and in fact the accused i.e. petitioners had not killed his mother inasmuch as death of his mother was natural. Learned counsel further contends that the two petitioners are in custody for the last more than 01 year 10 months and that the trial may take time to conclude and so, they be allowed bail.

7. Learned State Counsel opposed the bail petitions by submitting that the case is dependant upon circumstantial evidence; that trial is going on; that role of the petitioners became suspicious in view of the CCTV footage and that the post mortem report has not ruled out death of deceased- Sitara by smothering.

2024:PHHC:097764



2024:PHHC:097765



CRM-M-6535-2024
CRM-M-7285-2024

8. At the same time, learned State Counsel has informed that out of 28 witnesses cited by the prosecution, only 04 have been examined so far. The custody certificate of the two petitioners would reveal that they are in custody for the last more than 01 year and 10 months. Both of them are women and none of them has any criminal antecedents.
9. Having noticed the long list of prosecution witnesses; that trial is likely to take long time to conclude; that the case is dependant upon circumstantial evidence; that there is delay of approximately 02 months in lodging the FIR and that the recovery of pillow allegedly used in the crime was made after four months, but without commenting anything further on the merits of the case, both these petitions are allowed. Petitioners – Akhtari and Rani are admitted to bail on their furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned, on usual terms and conditions.
10. A photocopy of this order be placed on the file of connected case.

July 31, 2024
renu

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No