

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10337-2024
Decided On: 04.03.2024

SHIMLA DEVI

.....PETITIONER(s)

Versus

STATE OF HARYANA

.....RESPONDENT(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Bikram Chaudhary, Advocate
for the petitioner.

Mr. Rajesh Gaur, AAG, Haryana.

MANJARI NEHRU KAUL, J.(Oral)

1. The instant second petition has been filed under Section 439 Cr.P.C., for grant of regular bail to the petitioner in case FIR No.23 dated 21.01.2020 under Sections 201, 302, 323, 325, 34, 506 IPC (Section 302, 201 IPC added later) registered at Police Station Pundri, District Kaithal.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been in custody since 08.03.2020 and till date only 05 prosecution witnesses out of 21 cited have been examined. It has been submitted that the sole material witness in the case in hand i.e. the complainant/eye witness already stands examined and hence, in the circumstances, further incarceration of the petitioner would serve no useful purpose as the trial is unlikely to conclude in the near future.
3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the learned counsel for the petitioner, on instructions, has

informed the Court that the petitioner was one of the active participants in the crime in question; she along with her daughter namely Jaswinder inflicted brick blows on the person of the deceased as well as the complainant, which finds due corroboration from the MLR of the complainant as well as the postmortem report of the deceased. Learned State counsel has further submitted that no doubt the sole material witness i.e. the complainant stands examined, however, while stepping into the witness box, the complainant had reiterated the allegations levelled against the petitioner in the crime in question.

4. On a pointed query put to the learned State counsel, he on instructions has informed the Court that fatal injuries on the person of the deceased had not been attributed to the petitioner but to her husband Birbal, who too was presently in custody. He has, on further instructions, informed the Court that the next date fixed before the trial Court is 28.03.2024, when some more prosecution witnesses out of the remaining 16 are likely to be examined.

5. I have heard learned counsel for the parties and perused the material placed on record.

6. The petitioner, who is a lady, has been in custody for 4 years having been arrested on 08.03.2020; as conceded by the learned State counsel, on instructions, she had not been attributed fatal injuries on the person of the deceased. It is a case resting on eye witness account and the complainant, who is also the alleged eye witness already stands examined. The petitioner is not stated to be involved in any other criminal case.

7. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner as his further incarceration would serve no useful purpose. Accordingly, the instant petition is

allowed; the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

04.03.2024

(MANJARI NEHRU KAUL)
JUDGE

Aman Dua

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No