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

CRM-M-17743-2024

DATE OF DECISION: 14.05.2024

AMRITPAL KAUR

...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. J.K. Singla, Advocate for the petitioner(s).

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 310, dated 16.11.2021, under Sections 302/120-B, 1860 IPC (Act No. 45 of 1860), registered at Police Station Sadar Mansa, District Mansa (Annexure P-5).

2. Learned counsel for the petitioner contends that the petitioner has been nominated as an accused on the strength of 120-B IPC despite the fact that neither she has been attributed any injury nor any eye-witness is there of the alleged occurrence. The instant FIR was lodged on the basis of hearsay by the complainant who is mother-in-law of the petitioner and mother of the deceased (Makhan Singh) without any incriminating material. He argues that while appearing as PW-2-Amrit Pal Singh in whose employment the deceased was working

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telephonically informed the complainant about the death of Makhan Singh, who has also failed to prove any role of the petitioner rather made number of improvements in the statement which creates doubt upon the prosecution story. He further submits that the petitioner has been in custody for last more than two and a half years.

Notice of motion.

On the asking of Court, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and has produced custody certificate of the petitioner. According to which, the petitioner is behind bars for the last 2 years, 5 months and 25 days, who is not involved in any other case.

On the strength of the deposition of the PW- 2 and 4 who are neighbourers of the deceased residence and PW-1/complainant, learned State Counsel submits that all have deposed against the petitioner to highlight the fact that the petitioner has illicit relation with co-accused Lovepreet Singh and the deceased came to know about this fact and on that account, the petitioner in connivance with co-accused Lovepreet Singh committed the offence, hence, she does not deserve the concession of bail.

5. Be that as it may, this Court is of the considered view that it is prima facie a case of circumstantial evidence wherein the petitioner has already suffered sufficient period in custody and she is not involved in any other case, and as per the principle of the criminal jurisprudence,



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no one should be considered as guilty till the guilt is proved beyond reasonable doubt, whereas in the instant case, trial is prolonged and likely to take long time in the light of the fact that out of 22 prosecution witnesses, only 2 have been examined and charges have been framed on 18.05.2022, and detaining the petitioner behind the bars for an indefinite period would amount to violation of Article 21 of the Constitution of India and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgement of Apex Court in “***Dataram Singh vs. State of Uttar Pradesh and another***;; (2018) 3 SCC 22”.

6. In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

7. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Petition stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

14.05.2024
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>