



202 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18114-2024 (O&M)
Date of Decision:23.05.2024

Priyanka

...Petitioner

Vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

CRM-15925-2023

1. Application is allowed as prayed for, subject to just all exceptions.

Main case

1. The petitioner has filed the second petition under Section 439 Cr.PC with a prayer to grant regular bail to her in case FIR No. 463 dated 29.06.2023, registered under Section 302/34 of IPC, Police Station City Narnaul, District Mahendergarh, Haryana.

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 contends that in the present case, the material witnesses have already been examined and there are no chances of tampering with the prosecution evidence. He further contends that the petitioner was arrested in the present case on 29.06.2023 and was later remanded to judicial custody. She was ordered to be released on interim bail by this Court with effect from 04.09.2023 till 06.02.2024 and there are no allegations that the petitioner had misused the concession of interim bail in any manner. Learned counsel for the petitioner has also relied upon the order dated 24.04.2024 passed by this Court in CRM-M-1253-2024 (O&M), titled as “Munesh Vs. State of Haryana” whereby the concession of bail has been granted to similarly placed co-accused in the present case. Learned counsel further submitted that the petitioner is also similarly placed and on parity also, she is also entitled to concession of bail by this Court. Learned counsel for the petitioner also placed reliance on the order dated 01.04.2024 passed by the Trial Court, wherein, it has been mentioned that a child named Kalpit, aged about 06 months was in the lap of the present petitioner. Thus, the petitioner deserves sympathetic consideration by this Court.

5. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that



the serious allegations have been levelled against the present petitioner and her co-accused. However, he was not able to dispute the fact that similarly placed co-accused has been granted the concession of bail by this Court.

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

7. While granting the concession of bail to Munesh, co-accused, this Court observed as under:-

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.

8. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on her furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate 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 her 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 herself from the Court proceedings except on the prior permission of the Court concerned.



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

(v) *The petitioner shall also file her affidavit before the concerned Court, mentioning her ordinary place of residence and number of mobile phone, which shall be used by her during the pendency of the trial. In case of change of place of residence/mobile number, she 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 her presence by making an entry in the Rojnamcha.*

9. 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.

23.05.2024

hitesh

(N.S.SHEKHAWAT)

JUDGE

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