

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

CRM-M-23616-2023
Reserved on: 30.04.2024
Pronounced on: 03.05.2024
2024:PHHC: 061345

GUDDO

. . . . PETITIONER

Vs.

STATE OF HARYANA

. . . . RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Rahul Singla, Advocate, for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 CrPC, petitioner prays for his release on regular bail in case FIR No.355 dated 07.10.2020 registered under Section 302/34 IPC at Police Station Chandimandir, District Panchkula.

2. Status report by way of affidavit of Sh. Surender Singh, HPS, Assistant Commissioner of Police, Panchkula, Zone-II, on behalf of the respondent-State, has been filed.

3.1 As per prosecution version, on 15.09.2020, Rakesh son of Siya Ram resident of Nada Sahib, was brought dead in Government Hospital, Sector 6, Panchkula. On the statement of his sister Reena, DDR No.24 dated 15.09.2020 was recorded. Investigation was conducted and physical evidence was collected. Postmortem examination of the dead body was got conducted, which revealed as many as six injuries on vital parts of his body, which were ante-mortem in nature and sufficient to cause death in ordinary course of nature and it was opined that injuries could not be self inflicted.

3.2 On 07.10.2020, Kalicharan, the brother of the deceased along with his father Siya Ram, got recorded his statement to the police, as per which his brother Rakesh was unmarried and addicted to liquor, who had come in contact with Guddo (petitioner). Deceased was residing in live-in relationship with said Guddo, who was a mother of six children from her previous marriage. It was further stated by Kalicharan that about two years back, when elder brother of the deceased had gone to village Sajna, Kamlesh and Meherban, the uncles of the petitioner, had told him about the live-in relationship of deceased and petitioner and that they were feeling humiliated in the society and that they will kill Rakesh (deceased) on getting an opportunity. Kalicharan suspected that his brother was murdered by aforesaid Kamlesh, Meherban and Guddo. FIR was registered

3.3 During investigation, petitioner-Guddo was arrested on 08.10.2020. On interrogation, she suffered disclosure statement on 09.10.2020, disclosing that in the night of 15.09.2020, Rakesh had come home in drunken condition and started beating her children with a pipe. She threatened the deceased with a police complaint, at which he dragged her out of the room and started fighting. She then picked up a knife and stabbed the deceased on various parts of his body, due to which he was seriously injured. With the help of her neighbour Dharam Singh, she took the deceased to Government Hospital, Sector 6, Panchkula, where he was declared brought dead. The said disclosure statement of petitioner-Guddo also resulted in recovery of a knife used in crime, hidden under the roots of a tree near the house. The knife as well as other physical evidence was sent to FSL.

3.4 It was found during investigation that apart from the petitioner, no one else was involved in the murder of Rakesh. After completing

investigation, report under Section 173 Cr. PC was presented in the Court.

4.1 It is contended by ld. counsel that petitioner has been falsely implicated only on the basis of suspicion expressed by Kalicharan, the brother of the deceased; that petitioner has no involvement in the murder of Rakesh; that petitioner and deceased were in love with each other and used to reside together and that on the fateful day, deceased under the influence of alcohol, injured himself and attempted to commit suicide, regarding which DDR (Annexure P2) was recorded.

4.2 Ld. counsel for the petitioner has also drawn attention towards the site plan as prepared by the police, revealing that as many as 8 tenants used to reside in the same premises in different rooms having a common open courtyard and so, it is hard to believe that petitioner could inflict numerous injuries with knife to the deceased, without being noticed by the neighbouring tenants.

4.3 Ld. counsel further contends that after completion of investigation, challan has already been filed, but trial is not proceeding and that petitioner is in custody for the last more than 3 years and 6 months. She is a woman with 6 children and has no criminal antecedents.

Prayer is made for grant of bail.

5.1 Ld. State counsel opposed the bail petition by submitting that the weapon used in the crime has been recovered from the possession of the petitioner, pursuant to the disclosure statement made by her; that deceased used to reside with the petitioner and that as deceased was beating the children of the petitioner, that provided the motive to the petitioner to commit the crime. Ld. State counsel also pointed out towards the gravity of offence and prayed for dismissal of the petition.

6. Submissions made by both the sides have been considered.
7. Case is dependent upon circumstantial evidence. Though the occurrence took place on 15.06.2020, but FIR has been lodged on 07.10.2020 i.e. more than after 100 days from the date of incident. The petitioner along with two others was suspected to be involved in the murder. The only circumstantial evidence against the petitioner, as pointed out by Id. State counsel, is her disclosure statement coupled with the recovery of knife allegedly used in the crime. FSL report is not placed on record to show as to whether there were any blood stains on the knife and as to whether those blood stains matched with the blood of deceased or other physical evidence as collected from the spot.
8. Apart from the above, petitioner is in custody for the last 3 years 6 months and 22 days with no other criminal case pending against her. It was also informed by the Id. State counsel that out of 19 witnesses, cited by the prosecution, only 8 have been examined so far.
9. Having regard to all the facts and circumstances as noted above, but without commenting anything further on merits of the case, this petition is allowed. Petitioner is admitted to regular bail on her furnishing requisite bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned, by observing usual terms and conditions.

Pending application(s), if any, also stand disposed of.

03.05.2024
Vivek

(DEEPAK GUPTA)
JUDGE

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