



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-23136-2024
Date of decision: May 14, 2024

ANITA @ NITA

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Narender Kaajla, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, Assistant Advocate General, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.545 dated 31.07.2021 (Annexure P-1) under Sections 346 of the Indian Penal Code, 1860 (and Sections 302, 201, 120-B IPC added later on), registered at Police Station Barwala, District Hisar.

2. Learned counsel for the petitioner submits that the husband of the petitioner (hereinafter referred to as 'deceased') went missing on 19.07.2021 and resultantly, the complainant lodged a missing complaint *qua* her husband on 31.07.2021. In the intervening period, the dead body of the deceased was fished out from a canal in the jurisdiction of Police Station Azad Nagar, however, since his identity was unknown, the dead body was cremated after conducting an autopsy upon him. Learned counsel has submitted that it was after 1 year and 5 months of the alleged occurrence, a supplementary statement was made by the brother of the deceased, wherein for the first time, he raised a

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suspicion *qua* the involvement of the petitioner, her sister-Kavita and 2 others i.e. Sushil and Sunil in the murder of his brother. Learned counsel has submitted that it is a case resting on circumstantial evidence and in case, there had been any suspicion *qua* the involvement of the petitioner and the co-accused in the crime in question, the brother of the deceased would not have chosen to sit quiet for almost 1½ years, moreso since in the intervening period, no additional material/evidence had come to his notice to link the petitioner and the co-accused with the crime in question; neither was there any witness of last seen nor any extrajudicial confession made by any of the accused and most importantly, even there was no clear-cut motive as to why the petitioner along with the co-accused would have assaulted the deceased and thereafter, pushed him in a running canal.

3. It has also been submitted by the learned counsel for the petitioner that during investigation, two different motives were brought forth by the prosecution against the accused; the first one being that since the deceased was averse to his sister-in-law Kavita's relationship with co-accused Sunil and Sushil, he was done to death; pertinently, this motive was subsequently discarded by the prosecution even before the challan was filed, as a result of which, Kavita was placed in column No.2; the second motive projected was an alleged illicit relationship between the present petitioner and co-accused Sunil. Learned counsel submits that in cases resting on circumstantial evidence, motive plays a pivotal role, however, in the instant case, no definite motive to commit the murder is forthcoming. Learned counsel has thus asserted that there are, on the face of it, many missing links in the case of the



prosecution, which create a serious dent. It has been submitted that even though the petitioner has now been in custody since 05.12.2022 and charges were framed on 11.09.2023, however, none of the 17 witnesses cited by the prosecution have been examined till date, hence, in the aforementioned circumstances, the petitioner cannot be made to languish in custody as the trial would take considerable time to conclude.

4. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the counsel opposite, on instructions, has not disputed that it was for the first time after 1 year and 5 months of the dead body of the deceased being fished out from a canal, that the brother of the deceased made a statement implicating the petitioner and three others in the murder of his brother. On a pointed query, learned State counsel, on instructions, has not been able to controvert that neither was there any witness of last seen nor was any other evidence collected to link the petitioner with the crime in question, however, she has submitted that pursuant to a disclosure statement made by the petitioner, a recovery of an iron rod was effected, with which the deceased had been first assaulted to death in his house, and then thereafter, his dead body thrown into a canal. Learned State counsel, on instructions, has though not disputed that the petitioner has clean antecedents, however, she submits that all the accused had hatched a conspiracy resulting in the deceased being done to death and thereafter, the petitioner had concocted a story *qua* the missing of the deceased so as to mislead the police.

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



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6. The FIR in question came to be registered at the instance of the petitioner. Admittedly, after the FIR was registered and even after the dead body of the deceased had been fished out from the canal, the brother of the deceased chose to keep quiet for the next one and a half years, before making his statement under Section 161 Cr.P.C., implicating the petitioner and others in the crime in question. This Court would refrain from commenting upon the evidence collected *qua* the petitioner at this stage. It would be for the learned trial Court to appreciate the evidence as and when it is adduced before it. However, since the trial has come to a virtual standstill after the charges were framed on 11.09.2023, this Court deems it fit to extend the concession of bail to the petitioner as it would take considerable time to conclude, moreso since 17 prosecution witnesses are to be examined.

7. The petition as such is allowed, and the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate. 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.

May 14, 2024
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No