



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-25131-2024
Date of decision: 24.05.2024

Rajwant Kaur @ Rajji

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Lovepreet Singh, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Ms. Muskan, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.216 dated 07.07.2023 registered for the offence punishable under Section 306 of IPC, 1860 at Police Station City Tarn Taran, District Police Tarn Taran.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Statement of Dilbagh Singh son of Swaran Singh resident of Circular Road Mohalla Jaswant Singh Tarn Taran aged about 55 years Mobile No.:-98766-35204. It is stated that I am resident of abovementioned address and used to do the work of tailor. I am having two sons and two daughters and all are married. My



elder son Avtar Singh got married about five years ago with Manpreet Kaur daughter of Kuldeep Singh alias Bhunda resident of Algo Kothi Police Station Valtaha and younger son Gursewak Singh got married about three years ago with Monika daughter of Ranjit Singh resident of village Kukadwala District Tarn Taran. We all family members reside in one house and used to do the work of tailoring. My eldest daughter-in-law Manpreet Kaur used to fight with my wife Daljit Kaur who is aged about 50 years and many times have also given beatings to her but we in order to save our image in the society used to not to talk about this with anyone and many times the respectable persons have got the matter compromised but despite the same Manpreet Kaur and her mother Rajwant Kaur wife of Kuldeep Singh and Manpreet Kaur's brother Gurjant Singh son of Kuldeep Singh alias Bhunda used to interfere in the matters of our house and used to give ill-treatment to my son Avtar Singh. On dated 04.07.2023 in the evening, Rajwant Kaur alias Rajji wife of Kuldeep Singh and Gurjant Singh son of Kuldeep Singh alias Bhunda came to our house where my daughter-in-law Manpreet Kaur and her mother Rajwant Kaur and brother Gurjant Singh gave beatings to my wife Daljit Kaur and also insulted her. My wife from the said day used to not to talk with anyone and used to remain silent and while not tolerating the said insult yesterday on 06.07.2023 being fed up from my daughter-in-law Manpreet Kaur and her brother Gurjant Singh and her mother Rajwant Kaur have consumed some poisonous



medicine. I took her to Harsukhman Hospital Adda Noordi, Tarn Taran for treatment and got her admitted and during the treatment she got expired. My wife Daljit Kaur has taken this extreme step on being fed up from Manpreet Kaur and her brother Gurjant Singh and her mother Rajwant Kaur. Thus, the strict legal action may kindly be taken against them. I kept the dead body of my wife Daljit Kaur in the dead house in the Civil Hospital, Tarn Taran and at that time since I was under shock as such I could not get my statement recorded to you and now I after taking along my son Avtar Singh was coming to give information to you and you met us on the way. Thus, the statement has been got recorded which has been read over and same is admitted to be true. Action may kindly be taken. Sd./- Dilbagh Singh, attested by SD Balwinder Singh SI Incharge Chowki Town Police Station City Tarn Taran dated 07.07.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 07.03.2024. Learned counsel for the petitioner has further argued that, at the most, the allegations against the present petitioner are that she along with co-accused was harassing the deceased which forced her to take extreme step. Learned counsel for the petitioner has further argued that the petitioner and the deceased were *Samdhans*. Learned counsel for the petitioner has further argued that the altercations, if any, between deceased-Daljit Kaur and present petitioner, namely, Rajwant Kaur cannot be sufficient enough to invoke Section 306



of IPC. Learned counsel for the petitioner, in order to buttress his argument, has relied upon the dicta of the judgment of the Hon'ble Supreme Court in the case of ***Mohit Singhal & Anr. Vs. The State of Uttarakhand & Ors., 2023 INSC 1035***, relevant whereof reads as under:-

“9. In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide.”

Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner is in custody since 07.03.2024 whereinafter investigation was carried out & challan stands presented on 01.05.2024. The rival contention of the learned counsel for the parties; as to whether the offence under Section 306 of IPC is made out or not, in the factual matrix of the present case; shall be essentially gone into during the course of trial.

This Court does not deem it appropriate to delve deep into these rival



contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. The petitioner is a lady aged about 46 years with no criminal antecedents. Accordingly, her bail petition is required to be considered, with some latitude, in terms of proviso to Section 437 of Cr.P.C. It would be apposite to refer herein to the dicta of a judgment passed by this Court in the case of ***Ravinder Kaur vs. State of Punjab (CRM-M-11503-2024***, while relying upon the dicta of a judgment of the Hon'ble Supreme Court in a case of ***Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51***, has granted the concession of regular bail to the petitioner therein, relevant thereof reads as under:

“51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected



to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

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58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances



contained therein. What is required is the consideration per se by the court of this proviso among other factors.”

As per the custody certificate dated 23.05.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 02 months and 16 days & is not shown to be involved in any other case. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change her cell-phone number without prior permission of the trial Court/Illaq Magistrate.



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(vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

May 24, 2024
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Whether speaking/reasoned:	Yes
Whether reportable:	Yes