



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-25917-2024

Date of Decision:-03.12.2024

Mamta.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Amit Choudhary, Advocate for the Petitioner.

Mr. Ashok Chaudhary, Addl. AG Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this third petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.81 dated 23.02.2020 under Sections 148, 149, 323 and 302 IPC registered at Police Station City Tohana, District Fatehabad.

2. The present FIR came to be registered at the instance of Sandeep Kumar and reads as under:-

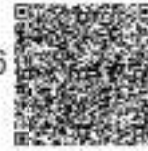
“ Statement of Sandeep Kumar S/o Rupa Ram, R/o Lohakhera and aged about 33 years, Mobile No.97283-29009 stated that I am resident of above mentioned address and works as a labourer. We were three brothers. In which my brother Vakil is the eldest younger to him is me and youngest is Kashmir and Kashmir has since been died last four years ago. My brother was doing the labour work in the village and he ws marriage and he is having three children. Yesterday dated 22.02.2020 at about 8.00 PM when I came back to home from Tohana at that time I came to know that fight with my brother near the house of Balbir balmiki



is going on I reached on the spot then Mamta D/o Sonu, Sultan S/o Balbir , Kiran W/o Rahul, Amar S/o Sonu, Arun S/o Sonu, Alam S/o Sonu and Rahul S/o Balbir, all were having bricks in their hands R/o Lohakhera, Caste Balmiki were beating my brother Vakil and while seeing, Mamta gave a rod blow on the head of my brother Vakil, Rekha gave a Lath (stick) blow on the neck of my brother Vakil and remaining all gave the brick blow on the various part of the body of my brother Vakil. On making noise by me Rahul gave a brick blow on my forehead, Amar gave a brick blow on the back side of my head, which he was carrying in his hand. After hearing my noise and after coming the persons of the village, all assailants ran away from the spot along with their respective weapons. Leaving me and my brother Vakil on the spot. After arranging the vehicle, I got admitted my brother and me in general hospital, Tohana, where after giving us first-aid they referred us to Medical Agroha and where government Ambulance got admitted both brothers at MAMC Agroha. Due to having more injuries my brother Vakil referred to PGI Rohtak and they admitted me and today at 11 AM I got the information on phone that my brother have died due to the injury suffered in the fight. All the accused above said have given injuries to me and my brother Vakil without any reasons due to which my brother had died. Strict legal action be taken against the accused. I have got recorded my statement heard, read, which is correct. Sd/- Sandeep Kumar.”

3. The Counsel for the petitioner contends that the petitioner who is a lady has been falsely implicated in the present case. There was a delay of 01 day in the registration of the FIR. The MLR showed two injuries whereas the post mortem report disclosed 06 injuries, thus created a doubt in the prosecution case. As the petitioner was in custody since 24.02.2020 but only 02 of the 24 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

5. The learned State counsel while referring to the reply dated



16.07.2024 contends that the petitioner is the main accused. She has been attributed an injury on the head of the deceased which proved to be fatal. Therefore, the nature of the allegations levelled against the petitioner did not entitle her to the concession as prayed for. He however concedes that the petitioner was in custody since 24.02.2020, only 02 of the 24 Pws had been examined so far and that she was a first time offender.

5. I have heard counsel for the parties.

6. As per the prosecution case the petitioner is undoubtedly the main accused. However, she has now been in custody since 24.02.2020 having undergone almost 05 years incarceration. Only 02 of the 24 Pws have been examined so far including the complainant. There are no allegations that she would abscond from justice or tamper with the evidence, if she is granted the concession of bail. In this situation the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Mamta** daughter of Sh. Sonu is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that she is not involved in any other crime other than the present case.

9. If the petitioner or any of her family members/associates make any attempt to contact/threaten/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted vide this Court.

10. In addition, the petitioner (or anyone on her behalf) shall



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prepare an FDR in the sum of Rs.50,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 03, 2024

Vinay

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