

CRM-M-27729-2023

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-27729-2023 (O&M)

Date of Decision: 29.02.2024

HARMEET KAUR

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Aman Raj Bawa, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 126 dated 12.09.2020 registered under Sections 302 and 120-B of Indian Penal Code at Police Station Jhander Amritsar, Punjab.

2. The present FIR was lodged on the statement of the complainant-Jagdeep Singh on the allegations that Randeep Singh alias Romy (deceased elder brother of the complainant) was married with accused Paramjit Kaur and they used to quarrel because accused Paramjit Kaur used to force his brother to sell his property in his village and purchase the property in the village Udho Wali Kalan. On 09.09.2020, the accused Paramjit Kaur left her matrimonial house alongwith her children and when his brother deceased Randeep Singh went to take her back, then she refused to come. However in the evening, accused Paramjit Kaur alongwith her children, her sister Harmeet Kaur @ Meetu (petitioner herein) and her brother Sonu returned to her matrimonial house and stayed there till 11.09.2020. On 11.09.2020 at around 7.00 P.M., Sonu who is the brother-in-law of deceased Randeep Singh @ Romy told the complainant that they have compromised the matter

among themselves and told him to purchase liquor from the market. At around 7.20/7.25 P.M. when the complainant returned home, then he saw that accused Paramjit Kaur alongwith her children, Sonu and Harmeet Kaur @ Meetu (petitioner) were sitting on the motorcycle in front of their house and told the complainant that Randeep Singh alias Romy had committed suicide by hanging himself with the fan and left the spot. After that, the complainant entered the house and saw that the dead body of Randeep Singh @ Romy was hanging with the fan. Complainant further stated that his brother Randeep Singh was killed by his wife accused Paramjit Kaur, his brother-in-law Sonu and his sister-in-law Harmeet Kaur @ Meetu (petitioner) by giving him some poisonous substance and after that, his dead body was hanged with the fan.

3. Learned counsel for the petitioner *inter alia* contends that there is no direct evidence to indicate the complicity of the petitioner in the alleged incident and she along with his brother-Sonu have been been falsely implicated in the FIR(supra) as they are real sister and brother of wife of the deceased Paramjit Kaur and there was matrimonial dispute between the deceased and his wife. Learned counsel further contends that petitioner is a household lady having two children and there is no one in the family to look after them as her husband is residing abroad and since her arrest, her children have been living in an Orphanage.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that deceased suffered total 12 injuries and the cause of death is strangulation and after inflicting injuries and committing murder of the deceased, he was hanged with the fan to make it look like a case of suicide and the presence of the petitioner at the

spot is not denied and produces the custody certificate.

5. Having heard learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner has been in custody for the last 01 year 07 months and 12 days as on 28.02.2024. Trial of the case is progressing at snail's pace as out of 20 prosecution witnesses, only 6 have been examined so far and the complainant has already been examined. The trial of the case is likely to take long time to conclude. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

A two Judge bench of the Hon'ble Supreme Court in ***Satender Kumar Antil vs Central Bureau of Investigation, (2022) 10 SCC 51*** has taken cognizance of their plight and held that in cases pertaining to women, the Court is expected to show some sensitivity. Speaking through Justice M.M. Sundresh, the following observations were made:

"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." (emphasis supplied)."

6. Keeping in view the fact that petitioner is a lady and mother of two minor children, the present petition is allowed. The petitioner- Harmeet Kaur @ Meetu is ordered to be released on regular bail, subject to her furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

29.02.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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