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(205)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-31178-2024 (O&M)

Date of Decision: 10.07.2024

KIRAN DEVI

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

Mr. Manoj Tanwar, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

The prayer in this 3rd petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.223 dated 30.07.2019 (Annexure P-1) registered under Sections 346, 302, 120-B, 201 IPC, 1860 at Police Station Kheripul, Faridabad, Haryana.

2. The present FIR came to be registered at the instance of Kiran Devi wife of Shiv Singh (deceased) and the same reads as under:-

“To SHO, Kheripul, Faridabad. Sir, It is submitted that I, Kiran Devi wife of Shiv Singh, am resident of Street No.3, Hanuman Nagar, Chadder Godam, Faridabad. I am household lady, that my husband is doing private work of electrician. That on dated 28.07.19, I and my husband were present at the house, it was Sunday on that day, it was about



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8 o'clock in the night that my husband went to meet someone after informing me. That after an hour when I made a phone call then he did not pick up my phone. That thereafter my husband did not return back to the house. That I made lot of search at my own level but could not be found anywhere, nor he returned back to home. That uptill now I had not given any application in the police station, that now I have come to the police station to give the missing application of my husband, that missing F.I.R. of my husband may be registered and my husband may be searched. I shall be grateful. Appearance fair colour, round face, well built physics, there is an injury mark on left chick, aged about 25 years, height 5.6, red shirt, white colour banyan, black lower, Bata sandal in feet of red black colour. Sd/- Kiran Devi.”

3. During investigation, the mother and brother of Shiv Singh namely, Chameli and Pradeep gave a written statement to the Police on 15.09.2019 stating that they suspected Kiran Devi (petitioner) wife of Shiv Singh who had committed the offence as she did not have a good character and used to often quarrel with the deceased.

Kiran Devi was arrested in the present case on 16.09.2019 and got recorded her disclosure statement to the effect that she along with Umesh @ Ambesh (granted bail vide order dated 24.05.2024 passed in CRM-M-15582-2024), Sandeep, Pritam and Ram Mahesh had murdered her husband and had thrown the dead body into Gurugram Canal with an intention to dispose off the body.

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A motorcycle, make TVS Apache bearing Registration No.DL 3SA5803 was recovered from the Agra Canal on 20.08.2019 and was found to belong to the deceased.

Sections 302, 201, 120-B IPC were added in this case and the motive was stated to be the illicit relationship between the petitioner and co-accused Umesh @ Ambesh.

Sandeep and Pritam were arrested on 16.09.2019 and got recorded their disclosure statements admitting their guilt.

Umesh @ Ambesh surrendered and was arrested on 25.09.2019. The call detail records of the accused were persons collected and they were found to be in touch with each other.

Ram Mahesh surrendered before the Juvenile Justice Board and claimed himself to be a juvenile. However, the documents submitted by him were found to be fake and he was arrested in the present case on 20.11.2020.

It also transpired from the CDRs of the accused persons that they were all in contact with each other through mobile phone and were present at the spot of the incident on the night intervening 28/29.07.2019.

Despite an effort being made to locate the body, the same could not be found on account of the continuous flow of water in the canal.

4. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. It was a case based on circumstantial evidence and other than the confessional statement of the co-accused and that of the petitioner herself, there was absolutely no

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evidence available inculcating the petitioner. The application of the brother and mother of the deceased was made on 19.08.2019 expressing suspicion upon Kiran Devi, 20 days after the occurrence. Pradeep, the brother of the deceased had been examined as PW-7 during the course of the Trial and had attempted to set up a case wherein he is stated to be an eye-witness of the occurrence. This was fatal to the prosecution case inasmuch as the initial version of Pradeep was to the effect that he and his mother suspected Kiran Devi and not that he was an eye-witness to the occurrence. Be that as it may, as the petitioner was now in custody since 16.09.2019 but only 09 of the 22 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, she was entitled to the concession of bail moreso when her co-accused Umesh @ Ambesh had been granted the similar concession.

5. The learned counsel for the State, on the other hand, contends that the petitioner was in an illicit relationship with Umesh @ Ambesh. The motive was established beyond doubt. The call detail records showed that all the accused were present around the place of occurrence. The nature of the allegations did not entitle her to the grant of bail. He, however concedes that the petitioner was a first-time offender, in custody since 16.09.2019 that only 09 of the 22 prosecution witnesses had been examined so far and that the co-accused had been granted bail.

6. On the other hand, the learned counsel for the complainant contends that the evidence available on the record was sufficient to deny bail

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to the petitioner. In fact, the petitioner had approached this Court seeking grant of bail and her petition came to be argued and withdrawn on 29.10.2021. There were no material change in circumstances entitling the petitioner to the grant of bail.

7. I have heard the learned counsel for the parties.

8. The improvements made, if any, by the witnesses in their depositions in Court with respect to the statements recorded during the course of investigation shall be examined and appreciated during the course of the Trial. Admittedly, the petitioner is a lady and a first-time offender. She is in custody since 16.09.2019 and only 09 of the 22 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. A co-accused has been granted bail. In this situation, her further incarceration is not required.

9. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Kiran Devi W/o Shri Shiv Kumar 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.

10. 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.

11. In addition, the petitioner (or anyone on her behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial

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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.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

10.07.2024

JITESH

Whether speaking/reasoned:- Yes/No**Whether reportable:- Yes/No**