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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on: 01.08.2024

Mandeep Kaur

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Sandeep Saini, Advocate
for the petitioner(s).

Mr. Jasjeet S. Dhaliwal, AAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.0391 dated 27.12.2023, under Section 306 IPC, registered at Police Station Zirakpur, S.A.S. Nagar, District Mohali.

2. Learned counsel for the petitioner submits that allegedly the petitioner and co-accused had harassed the deceased due to which the deceased committed suicide. It has further been contended that petitioner has been falsely implicated and there is no *mens rea* on the part of the petitioner. She is a lady of clean antecedents and is not involved in any other criminal case. She has undergone an actual custody of 07 months and 02 days. Further, reliance has been placed upon the judgments passed by the Apex Court in “*Dataram Singh vs. State of Uttar Pradesh and another*”, (2018) 3 SCC 22 and “*Abdul Rehman Antulay and others v. R.S. Nayak and another*”, 1992(2) RCR (Criminal) 634 in support of his submissions.

3. Upon advance notice, learned State counsel has put in appearance and submits that the petitioner was actively involved in the commission of the offence. He has filed custody certificate dated 31.07.2024 in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 07 months and 02 days and is



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not involved in any other case. He on instructions from the concerned investigating officer-ASI Birender Singh, submits that charges were framed on 16.05.2024 and till date, no prosecution witness has been examined. He, however, submits that in view of the serious allegations against the petitioner, she is not entitled to the concession of regular bail.

4. Heard the rival submissions made by learned counsel for the parties.

5. The charges were framed on 16.05.2024 and none of the prosecution witness has been examined till date. The petitioner has undergone actual custody of 07 months and 02 days. Further detention of the petitioner will not serve any useful purpose and will be violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another”, (2018) 3 SCC 22.**

6. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in **“Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634** observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

7. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the charges were framed and none of the prosecution witness has been examined till date. The petitioner has undergone actual custody of 07 months and 02 dyas. Therefore, this Court is of the view that further incarceration of the petitioner would not serve any purpose.



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may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on her furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which she is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

10. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

01.08.2024
Kapil

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No