

CRM-M-35196-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35196-2024
Reserved on: 06.08.2024
Pronounced on: 30.08.2024

Sushma Rani ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rakesh Nehra, Sr. Advocate with
Mr. Pankaj Kaushik, Advocate and
Mr. Ankit Yadav, Advocate
for the petitioner(s).

Mr. Rajat Gautam, Addl. AG, Haryana.

Mr. Randeep Singh, Advocate
Mr. Divyan Singh, Advocate and
Mr. Vikram Singh, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
140	16.05.2024	Nigdhu, District Karnal	148, 149, 323, 452,307, 302 & 506 IPC

1. The petitioner apprehending arrest in the FIR captioned above, had come up before this Court under Section 438 CrPC, seeking anticipatory bail.
2. In paragraph 14 of the bail petition, the accused declares that she has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That at the very outset, it is submitted that on 16.05.2024, at about 12.15 AM SI Satyawar along with H.C. Gulzar Singh had no rush CHC Nigdhuon receiving telephonic information with regard to the admission of Surinder Kumar son of Rameshwar Dass, resident of village KarsaDod in the hospital. Consequently, he moved an application before the concerned doctor seeking opinion with regard to fitness of injured Surinder Kumar, however, he was declared unfit. After that, SI Satyawar Singh found present Krishan son of Parsa Ram, resident of village KarsaDod at the main gate of CHC, who got recorded his statement to the effect that there is a Kansa Chopal in front of his house in the village.

Shishpal Sharma's nephew (Bhanja) Gaurav had purchased some land near to his house. Some chairs of Panchayat were laid on said land, on which some villagers also used to smoke Hooka and intoxicants themselves. It is alleged that around 11:15 PM on 15.05.2024, the complainant along with his brother Rameshwar was standing in front of their house, where Parmod @ Lucky son of Shishpal. Rahul son of Subhash, Shishpal son of Hari Chand, Gaurav nephew of Shishpal, Sushma Rani wife of Shishpal, grandson of Hari Ram, grandson of Budda, Aman son of Chhatarpal, Kaki son of Hassan Pal, Ashok son of Pala Ram, Ankus son of Multan and 4-5 other persons were sitting on aforementioned chairs, taking liquor and making ruckus. Consequently, RameshwarDass snubbed them on this account and aforementioned all the persons got swords, Gandasi, Dandas from their houses. In the meanwhile, Surrender son of Rameshwar also arrived there. All the aforementioned accused persons while acting in concern assaulted Surinder Kumar with swords, lathis and dandas with the intention of causing his death. Surinder Kumar was assaulted with a sword on his stomach and on several places on his back. All the accused persons in fact assaulted Surinder with their respective weapons. Resultantly, Surinder Kumar fell unconscious and the complainant was also present at the spot and raised the alarm to save Surinder Kumar. In the meanwhile, some other persons also arrived at the spot and therefore, all the aforementioned assailants fled along with their respective weapons by giving an ultimatum that they have saved themselves Mon that day, otherwise, they would have been killed. After that complainant along with Kala son of Isham Singh, Suresh Kumar son of Kehar Singh and Rameshwar father of injured; Surrender Kumar took him in a private vehicle in the Government Hospital, Nigdhu for treatment. Hence, he requested for taking legal action against all the aforementioned persons. On the basis of said complaint initially case FIR No. 140 dated 16.05.2024 U/S 148,149,323,452,307,506 of IPC Police Station Nigdhu, District Karnal was registered against the petitioner and other co-accusedParmod @ Lucky son of Shishpal, Rahul son of Subhash, Gaurav S/o Nirmal, Santosh @ Sushma Rani W/o Shishpal. Tony S/o Suresh, Gaurav S/o Pala, Aman S/o Chatarpal. Kaki S/o Husanpal, Ashok S/o Pala Ram, Ankus S/o Pala Ram.

3. That after registration of the case, investigation of this case was carried out by SI Satyawan, who during the course of the investigation had recorded the statement of witnesses. During the course of the investigation on the night of 17/18.05.2024, information was received from the hospital that Surrender Kumar died during treatment. Thereafter proceedings under section 174 Cr.P.C. of deceased Surrender Kumar was got conducted and an application was moved by the Investigating Officer for conducting the post-mortem of the dead body from the doctor of Kalpana Chawla Government Medical College hospital. Karnal and the post-Mortem of dead body was got conducted from the Medical officer, Kalpana Chawla Government Medical College hospital. Karnal and the dead body of deceased surrender Kumar was entrusted to the heirs for cremation. During postmortem the doctor by conducting the postmortem of the dead body of the deceased Surrender Kumar, PMR report and parcel of viscera, parcel of clothes of deceased Surrender Kumar and vial duly sealed of doctor, which is in the name of Director FSL/ Madhuban, Karnal was

taken into police custody through memo. Statements of witnesses were written. As per memo, the case property was deposited with the MohrarMalkhana of police station Nigdhu, Karnal. In post-mortem report doctor opined, that "in our opinion, the cause of death in this case is injury described over the abdomen and its complication". Copy of MLR and PMR of deceased is attached as Annexure R-I& R-II for the kind perusal of this Hon'ble Court. During investigation, section 302 of IPC was added in this case."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.
5. The State’s counsel opposes bail and refers to the reply.
6. The complainant’s counsel also opposes the bail and states that the petitioner was carrying a danda.
7. It would be appropriate to refer to the following portions of the reply, which read as follows:

“9. That on 28.06.2024, a pen drive consisting the CCTV footage of alleged occurrence was produced by HC Naresh Kumar before the Investigating Officer and same was taken into the police possession vide memo. From the perusal of CCTV footage, accused Sushma Devi was seen going towards the incident place and after the incident she was coming alongwith a danda in her hand and also seeing to threaten the eye witness, who shoot the video of incident in his mobile phone.”
8. Given the petitioner’s role, coupled with the prima facie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability of further pre-trial incarceration at this stage, subject to the compliance of terms and conditions mentioned in this order.
9. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
10. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
11. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
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2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

12. This order is subject to the petitioner’s complying with the following terms.
13. The petitioner is directed to join the investigation as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.
14. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.
15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
16. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.
17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.