



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-36212-2024

Date of decision: 30.08.2024

MURTI DEVI

...Petitioner

V/s

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Himanshu Chaudhary, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Ms. Riya Chopra, Advocate for
Mr. H.S. Ghuman, Advocate for the complainant.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of BNSS for grant of regular bail to the petitioner in case bearing FIR No.03 dated 05.01.2023 registered for the offences punishable under Sections 294, 427, 323, 506, 148, 149 of IPC (Section 307 and 354 of IPC added later on), at Police Station Dugri, District Ludhiana.

2. The case set up in the FIR in question is as follows:-

“Statement of Sonali daughter of Tulsi Ram, resident of House No.1035 Gali No.4, Bhai Himmat Singh Nagar, Block A, Dugri aged about 30 years Mobile No.9876144056, stated that I am resident of above mentioned address and doing makeup artist work. On dated 30.12.2022 at about 12:30 PM, a person namely Raju who is residing in my neighbourhood and at his house, the work of throwing debris were going on and they are throwing the debris from third storey to directly in the trolley which parked in the street by them. My mother Raj Kumari



raised. objection on throwing the debris directly in the street to their labourer, because our Active got damaged which was parked in this street, then mother of Raju came in the street and started arguing with my mother by stating that we do as it is, do whatever you want to do and Raju's mother started quarrelling with my mother by saying bad things about my character and by saying disrespecting word about me, because of which, the hot arguments taken place between them and we left from the spot. My father Tulsi Ram called on phone to my brother to come at home and Raju's mother called me brother namely Sumit to her and started arguing with my brother also, then I sent my brother in the house. When I along with my mother took my active to go, then Raju and her mother started abusing me and my mother, after listening voice of quarrel my father and brother came outside the house, then Raju started arguing with my brother and I started shooting video on my mobile phone of all this occurrence, then Raju's mother slapped me many times and she broke my mobile by throwing it on ground and Raju's wife namely Diksha also slapped me many times and sister in law of Raju namely Priyanka Kumari (bhabhi.) also gave 7/8 stone blow to me and I sit there by holding my head and my clothes were wet in the blood. Then Raju's nephew (bhatija) namely Sahil Kumar gave 5/7 blow of iron rod on the back side of my thigh and Raju's mother pushed me aside while she was beating me and I felt in the position of unconsciousness and Raju's daughter namely Dolly hit marble stone blow on my forehead and I became unconscious on spot and when I was unconscious, the Raju's son gave leg blow to me, then Raju's brother Vinod checked me on spot, whether I was died or not and then whole family run away from the spot. My brother took me to hospital and admitted me for treatment. Raju and his family tried to kill me and I have threats to my life and my whole family badly injured by Raju's family. Statement is readover, listen and same is correct. Sd/- Sonali (Signatures in English) 9876144056, witnessed by: Raj Kumari (Signatures in English) 9888858826 Verified by ASI Partap Singh No. 2334/Ldh Police Station Dugri, Ludhiana dated 05.01.2023. Police action: On dated 02.01.2023, I ASI was present in the police station, then Main Munshi of police station told me that MLR NT/206/2023 of Sonali, MLR No, PP/310/23 of Tulsi Ram, MLR PP/309/23 of Raj Kumari and MLR No. PP/302/23 Priyanka, MLR/PP/303/23 Vinod Kumar, MLR No. PP/301/2022 Meenu, MLR PP/300/23 Murti Devi residents of Himmat Singh Nagar Ludhiana have quarrelled with each other and action be taken after receiving MLR, upon which I ASI along with the colleagues reached at Chowki Civil Hospital and received MI Rs of above mentioned persons and enquired about the victim persons and no victims were admitted in the Civil hospital. Munshi of police station Division 4 is received and he stated that victim Sonali daughter of Tulsi Ram resident of House No. 1034 Gali No.4 Bhai Himmat Singh Nagar Block A Dugri, Ludhiana, is admitted in Bhagwan Ram Charitable Hospital Daresi Ludhiana vide Admission No. 10566, CR No.224456 dated 02.01.2023 due to quarrel and now action be taken. Upon which, I ASI along with colleagues on receiving of Ruqa from the police station division 04 Daresi reached at Bhagwan Ram Charitable Hospital Daresi Ludhiana. For recording the statement of victim Sonali, advice has been taken from Doctor by writing application and doctor opined her fit for recording the statement, upon which I ASI on returning entered rapat in Roznamacha. On dated 04.01.2023 I ASI along with CT Gurpreet Singh No.4251/Ldh, CT Jaskaran Singh No.3999/Lah reached at Bhagwan Ram Charitable



Hospital and on the MLR No.206/2023 of Sonali doctor marked total 6 injuries which are blunt and simple in nature and in MLR No. PP/310/23 of Tulsi Ram doctor opined total 2 injuries, both are simple and caused with weapon and in MLR PP/309/23 of victim Raj Kumar doctor opined 3 injuries and all are in simple nature and No.1 injury was kept under X-Ray. On receiving of X-ray the proceeding will be initiated as per report and further proceedings will be initiated after obtaining the MLR of other side. I ASI for recording the statement of victim, reached at her bed, who was talking with her relatives and she read her recorded stated as she got written the same, readover and after leistering the same, she found it correct and put her signature in English and the same is verified by her mother Raju Kumari. For the perusal of statement and MLR offence u/s 294, 427, 323, 506, 148, 149 IPC has been found committed. Upon which statement has been sent to the police station by hand of Constable Jaskaran Singh No.3099/Ldh. for registering of FIR against Vinod Kumar son of late Hira Lal resident of House No.1035 Gali No.04, Bhai Himmat Singh Nagar, Block A, Dugri Ludhiana, Sahil, Harihar, Raju, Raju's wife Meenu, Raju's daughter Doli, Vinod's wife Priyanka, Ram Murti. FIR number be intimated after registering the same and higher official be intimated. I ASI alongwith colleagues going on spot. In the limits of: Bhagwan Ram Charitable Hospital, Ludhiana at 1:30 AM Sd/- ASI Partap Singh No.2334/Ldh, Police Station Durali Ludhiana dated 05.01.7023. Today on receiving the statement in the police Station an FIR is registered under the above mentioned offence against Vinod Kumar son of late Hira Lal resident of House No. 1035 Gali No.04, Bhai Himmat Singh Nagar, Block A, Dugri Ludhiana, Sahil, Harihar, Raju, Raju's wife Meenu, Raju's daughter Doli, Vinod's wife Priyanka, Ram Murti. Original statement alongwith copy of FIR has been sent to ASI through coming CT. Information supplied to Control room through phone. Closing Report No. 4.”

3. Learned counsel for the petitioner has argued that the petitioner has been in custody since 01.12.2023. Learned counsel for the petitioner has further argued that the active role attributed to the petitioner is of a slap only and she has been roped in for the offence under Section 307 of the IPC (by invoking Sections 148/149 of the IPC). Learned counsel for the petitioner has further submitted that the petitioner is an aged lady of about 68 years.

4. Learned counsel for the complainant has also filed a reply to the instant petition which is taken on record. Learned counsel for the complainant has further raised vehement submissions in tandem with the written reply submitted by her on behalf of the complainant.



5. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

6. I have heard counsel for the parties and have gone through the available records of the case.

7. The petitioner was arrested on 01.12.2023 whereinafter investigation was carried out & challan was presented on 01.03.2024. Total 18 prosecution witnesses have been cited and the culmination of the trial will, but of course, takes its own time. The rival contentions of the learned counsel for the parties; regarding the active role attributed to the petitioner as also whether the offence of Section 307 of IPC is made out against the petitioner (by way of invoking Sections 148/149 of IPC); shall be gone into during the course of trial. The petitioner is a lady aged about 68 years and then hence the regular bail petition ought to be considered in view of the provision of Section 480 of BNSS, 2023/Section 437 of Cr.P.C. In this context it would be apposite to rely upon a judgment passed by this Court in ***CRM-M-11503-2024 titled as Ravinder Kaur Versus State of Punjab*** relevant whereof reads as under:-

"It would be apposite to refer herein to the dicta of a judgment of the Hon'ble Supreme Court in a case of Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51, which held as under:

"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.”

This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 29.08.2024 filed by the learned State counsel, petitioner has suffered incarceration for a period of more than 8 months 29 days & is not shown to be involved in any



other case. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

8. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.



- 10. Ordered accordingly.
- 11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
- 12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

August 30, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No