

213 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-51107-2023 (O&M)

Date of Decision: 14.02.2024

LAXMI

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Arpandeeep Narula, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

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. 42 dated 03.02.2023 registered under Sections 302, 201, 120-B and 34 of Indian Penal Code at Police Station Meham District Rohtak.

2. Present FIR was lodged on the allegations that on 26.01.2023, murder of brother of the complainant was committed by his daughters namely Priyanka, Preeti and one Sandeep. It was further alleged that these three persons gave beatings to the deceased brother of the complainant namely Karamvir and committed his murder by strangulating him. The petitioner, who is wife of the deceased is also involved in the crime and she and her daughter Priyanka were having illicit relationship with Sandeep and the deceased-brother of the complainant was restraining them from calling Sandeep at their house and due to this reason all of them have committed murder of Karambir to remove him from their way. The complainant further alleged that his nephew Bittu has informed him that on 26.01.2023 at around 5.00 AM, he has heard noise of a quarrel from the house of the

deceased and at that time Sandeep was also present in the house. After some time, his nephew had seen Sandeep leaving the house of the deceased and complainant's other nephew-Pawan had also seen Sandeep leaving the place.

3. Learned counsel for the petitioner *inter alia* contends that the alleged occurrence had taken place on 26.01.2023 and it was the petitioner who made the first complaint before the local police with regard to homicidal death of her husband-Karambir and it was the petitioner who sought the post-mortem of her husband's dead body and her written statement dated 26.01.2023 is available on record as Annexure P-2. Further, it is the admitted case of the prosecution that on the day of incident, the petitioner had gone to the house of her sister and she was not present at her house. Learned counsel for the petitioner has referred to the statement of Priyanka recorded under Section 164 of Cr.P.C. as Annexure P-4 and statement of Pritam-son of the deceased, aged 17 years, as Annexure P-5 and submits that perusal of their statements clearly indicate that the petitioner was not present at her house, when the alleged murder of deceased had taken place. He further submits that moreover, the motive as given in the FIR by the complainant, is highly improbable. In fact the complainant has lodged this FIR only to grab the property of the deceased-husband of the petitioner.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that her role and connivance is fully established in the present case and witnesses have specifically stated that co-accused Priyanka and Sandeep had committed the murder of deceased by hatching a conspiracy with the petitioner.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that petitioner is behind the bars since 05.02.2023. Investigation of the case has been concluded by the Investigating Agency and the final report under Section 173 of Cr.P.C. has been submitted on 28.04.2023. Trial of the case has not commenced as none out of 28 prosecution witnesses, has been examined so far. 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 Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

6. Therefore, without commenting upon the merits of the case, lest it may prejudice the outcome of the trial, the present petition is allowed and the petitioner-Laxmi is ordered to be released on regular bail during trial on

her furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

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.

14.02.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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