

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46551-2023 (O/M)
Date of decision : 13.03.2024

Suman Lata

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Abhimanu Jangra, Advocate
for the petitioner.

Mr. Vishal Malik, DAG Haryana.

Mr. Kamal Choudhary, Advocate
for complainant.

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HARSH BUNGER, J. (ORAL)

Petitioner (Suman Lata) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case bearing FIR No. 143 dated 05.04.2022 (Annexure P-1), under Sections 302, 201 and 120-B of the Indian Penal Code, registered at Police Station SGM Nagar, District Faridabad.

2. Status report by way of affidavit of Shri Mahesh Kumar, HPS, Assistant Commissioner of Police, NIT, Faridabad, has been filed by State of Haryana, which is already on record.

3. Succinctly, the aforesaid FIR has been registered on the statement of one Mamta, wife of Rajender Kumar with the averments that she is an M.A. B.Ed. and is a homemaker. It was stated that her husband, who belongs to Fatehabad, Haryana, is a Government employee and works

as R.C. Clerk in the office of SDM, Faridabad. It was stated that she lives alongwith her husband and son. It was further stated that on 04.04.2022 when her husband did not return home for the last two days, she tried to call on her husband's mobile many times, but the phone was switched off and thereafter, she enquired about her husband in the SDM office, with no effect, as he was not found there as well. When she enquired about it, the complainant came to know that her husband is in House No. 837, C-Block, whereupon she reached there and found the gate of aforesaid house closed and when the complainant bowed her head below the gate, she saw that the dead body of her husband, wrapped in clothes, was lying in the courtyard of the house whereupon she immediately called the police. It was alleged that her husband had been murdered by one Bala Devi (who used to call herself second wife of her husband Rajender) alongwith her daughter Suman (petitioner herein) and nephew Krishan with a well planned conspiracy who fled away after killing her husband and putting the dead body in courtyard of the aforesaid house. It was stated that she has seen the body of her husband and it seems that as he was attacked on his head and other injuries were also found on the body.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and there is no eye witness to the crime and no specific role has been attributed to the petitioner. It is submitted that the complainant, in her cross examination before trial Court, has categorically deposed that the complaint was written by her on the dictation of SHO and IO of concerned police station, therefore, statement of complainant cannot be relied upon. It is further submitted that according to the doctor opinion the possibility of injuries by falling on a hard surface

cannot be ruled out. It is next submitted that the entire case is based on circumstantial evidence and there is no eye witness account.

5. Learned counsel submits that the petitioner had applied for regular bail before the Court of Additional Sessions Judge, Faridabad, which was wrongly declined vide order dated 01.04.2023 (Annexure P-6). Learned counsel submits that the petitioner has been in custody in this case since 06.04.2022; challan stands presented on 16.06.2022 on completion of investigation and even charges have been framed on 18.08.2022. It is further submitted that there are total 17 prosecution witnesses cited in this case, however, out of which only 5 prosecution witnesses have been examined by now. Hence, conclusion of trial will take some time and no useful purpose would be served with further incarceration of the petitioner as she has already been in custody for more than two years. It is submitted that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

6. Per contra, learned State counsel opposes the prayer of petitioner for grant of regular bail on the ground of seriousness and gravity of the offence. It is submitted that the deceased died on account of injuries received by him on his head and body and the house from where the body of husband of complainant was found belongs to Bala Devi (mother of petitioner). It is further submitted that the bail application filed by petitioner has been rightly dismissed by the learned Additional Sessions Judge, Faridabad. It is also submitted that in case petitioner is granted the concession of regular bail then she may abscond from trial or may intimidate/influence the witnesses Accordingly, it is prayed that the

petitioner should not be extended the concession of regular bail.

7. I have heard learned counsel for the parties and perused the paper book as well as status report.

8. In the instant case, the petitioner has been specifically named in FIR. As per the status report, the petitioner alongwith other co-accused had suffered their disclosure statements and got recovered the Danda and also the wooden stick (Thappi) for washing clothes and iron bar (Saria), used by them in the crime. It is further stated that on 07.04.2022, petitioner got recovered Danda and mop used in the crime from House No. 837 vide recovery Memo dated 07.04.2022 (Annexure-P-3).

Although, the petitioner was arrested on 06.04.2022 and even charges have been framed in this case, however, in my considered opinion, merely long incarceration cannot be a ground to extend the concession of bail to the petitioner, who is co-accused in the crime and is being tried for a heinous and grave offence of murder of Rajender. In *Kalyan Chandra Sarkar v. Rajesh Ranjan alias Pappu Yadav*, 2004(2) RCR (Criminal) 254, Hon'ble Apex Court held as under:

“The condition laid down under Section 437(1)(i) is sine qua non for granting bail even under Section 439 of the Code. In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitled the accused to

be enlarged on bail, nor the fact that the trial is not likely to be concluded, in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”

9. As regards the submission of counsel for petitioner that the statement of complainant cannot be relied upon, it is observed that even in cases, where the witnesses resile from their statements, in those cases also, it is to be considered by the Court whether under the circumstances, the witness stands thoroughly discredited or can still be believed in regard to a part of his testimony.

10. As regards the submission of learned counsel for the petitioner that there is no eye-witness to connect the petitioner with the alleged crime, suffice it to say that while considering the prayer for regular bail, the Court is not required to conduct a mini trial. In any criminal case, the witnesses are the eyes and ears of justice. But the testimony of the witnesses is not always credible and therefore the facts are provable not only by witnesses but also by circumstances. Circumstantial evidence matters more as the circumstances never lie. The evidence placed on the file would be considered by the trial Court at the appropriate stage.

11. In the present case, a precious human life has been lost in the occurrence; trial is proceeding and some witnesses already stand examined. The petitioner, if enlarged on bail then there is a possibility that she might abscond or indulge in influencing the witnesses. Hence, keeping in view the gravity and nature of the offence, I do not deem it fit to extend the concession of bail to the petitioner. Accordingly, the present petition is

dismissed.

12. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.
13. All pending application(s), if any, shall also stand closed.

(HARSH BUNGER)

JUDGE

13.03.2024

sjks

Whether speaking/reasoned

:

Yes / No

Whether reportable

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Yes / No