

CRM-M-59857-2023 (O&M)

-1-

108 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-59857-2023 (O&M)  
Date of decision : 15.02.2024

Kiran Bala

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present : Mr. Alok Mittal, Advocate,  
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana,  
for the respondent.

**MAHABIR SINGH SINDHU, J.**

Present petition has been filed Section 439 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') for seeking bail pending trial in FIR No.561 dated 18.10.2021, under Sections 346, 302, 201, 328 and 365 of the Indian Penal Code, 1860, (for short, 'IPC') registered at Police Station, Ballabgarh City, District Faridabad.

2. The aforesaid FIR was registered on the basis of an information supplied by *de facto* complainant Jitendra Kumar (brother of the deceased-Pawan Kumar) and which reads as under:-

*"To the In-charge Police Post Ballabgarh Faridabad Sir, It is requested that I am Jitendra Kumar, son of Mr. Rupchand, resident of House No. FCA C-2, Street No. 1, Near Tharuram School, Bhatia Colony, Ballabgarh. We are two brothers, when my younger brother namely Pawan Kumar left home at 6:00 AM in the morning to go for his duty on 16.10.2021 and did not return home in the evening where after we came to know that*

CRM-M-59857-2023 (O&amp;M)

-2-

*his female friend lives in Chawla Colony Ballabgarh. Then on 17.10.2021, at about 8:30 PM, I telephonically enquired about my brother then the lady namely Kiran told that Pawan came to my house. However, she said that Pawan went back after handed over his car and Laptop to her at about 4:00 PM and thereafter, he neither reached the office nor came back home. Uptil now, we have been searching at own personal level by contacting the relatives and friends. My brother Pawan is untraceable whose phone numbers 9911895222, 9999623766 are switched off. We have given a missing complaint qua my brother today. My brother be searched for. Sd/- Jitender Kumar Mobile No. 9999623777, Bhatia Colony, Ballabgarh.”*

3. It is necessary to mention here that initially the FIR was registered under Section 346 IPC; but during investigation, when dead body of Pawan Kumar along with his clothes, gold ring were recovered on 28.10.2021, the offences under Section 302 IPC etc. were added. Petitioner is stated to be in custody since 28.10.2021.

4. Learned counsel for the petitioner contends that although her name appears in the FIR, but there is no allegation regarding commission of crime; rather, she has been falsely implicated by the complainant party. Further contended that there is an unexplained delay of two days in registration of the FIR and during this period the entire prosecution story has been concocted to nominate the petitioner. Also contended that it cannot be believed that petitioner being a female, could captivate the deceased for more than 15 hours at various places in the city and/or in a Hotel; thus, the prosecution case is wholly doubtful. Further contended that no motive has been attributed to the petitioner and there are 46 prosecution witnesses and

CRM-M-59857-2023 (O&amp;M)

-3-

as such trial will take sufficient long time; hence, no useful purpose would be served while keeping her in custody any further.

5. *Per Contra*, learned State counsel while opposing the prayer of petitioner submitted that cause of death in this case is opined due to extensive burns injuries and FSL Report dated 30.11.2021 has already been received. While making reference to Annexure R-4, learned State counsel further submitted that on 16.10.2021, petitioner stayed in a Hotel with the deceased while showing the name of deceased as Shakti Kapoor son of Sai Dass instead of Pawan Kumar, but her mobile No. i.e. 9315226653 is duly reflected in the Hotel register and she had put her signature in the register at page No.62 maintained by owner of the hotel. Even during investigation, one Ravi son of Rajiv Gupta (R-6) also made a statement to the effect that petitioner booked a room in an OYO hotel in Haus Khas, New Delhi.

6. Heard learned counsel for the parties and perused the paper-book.

7. Of course, in the FIR, there is no specific allegation against the petitioner for commission of crime, but she has been mentioned as friend of the deceased. It is not in dispute that initially FIR was registered under Section 346 IPC, but after recovery of the dead body, Section 302 IPC along with other offences were added and petitioner was arrested on the same day. Moreover, it is well settled that FIR is not an encyclopedia of the prosecution case; rather, it is only an information entered in the register maintained by the police to put the criminal law into motion. In the present

CRM-M-59857-2023 (O&M) -4-

case, there is no denial that petitioner was having friendly relations with the deceased and in view of the statement of Ravi coupled with the record obtained by the police from the Hotel, it appears that both (petitioner as well as deceased) stayed together during the night of 16.10.2021. Dead body of Pawan was recovered in a burnt condition on 18.10.2021; thus, *prima facie* complicity of the petitioner is apparent, being the last seen.

8. Although learned counsel for the petitioner raised a plea that there is delay of two days in registration of the FIR and no motive has been attributed to her, but both these points can be considered by learned trial Court at appropriate stage and as such, it would be preposterous to express any opinion in this regard.

9. In view of the above, this Court is not inclined to grant the concession of bail pending trial to the petitioner “at this stage”.

10. Consequently, the petition is dismissed.

11. Also clarified that observations made above shall not be construed as an expression of opinion on merits of the controversy, in any manner.

12. Pending application(s), if any, shall also stand disposed off.

15.02.2024  
adhikari

(MAHABIR SINGH SINDHU)  
JUDGE

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