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2023:PHHC:122084

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44958-2023

DECIDED ON: 15.09.2023

PINKI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Amandeep Singh Rai, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked for the second time under Section 439 Cr.P.C., seeking bail to the petitioner in FIR No.107 dated 21.06.2021 (Annexure P-1) under Section 302, 120-B, 182, 34 of IPC, registered at Police Station Laddowal, Police Commissionerate Ludhiana.

The contents of FIR read as under:-

“Station House Officer, Laddowal, Ludhiana, on dated 20.06.2021, H.C. Jatinder Singh 3451/Ludhiana Police Chowki Habbaran, P.S. Laddowal, Ludhiana from Pinki wife of Narinder Pal, r/o Malpura, Banga Road, Nawanshahar at present resident of Kaka Ram Hari Chand Khal Factory, Mullanapur Road, Habbaran, Distt. Ludhiana statement the proceeding were initiated vide DDR No.20 dated 20.06.2021 u/s 174 Cr.P.C. Police Station Ladhuwal, Ludhiana. That deceased Bharti aged about 9 yrs d/o Narinder Pal, who is the real daughter of Pinki, her dead body. was kept in Civil Hospital, Ludhiana but the post mortem could not be conducted on 20.06.2021. That today, H.C. Jatinder Singh 3451/Ldh alongwith H.C. Jittu Kumar 2070/Ldh have reached at Civil Hospital for conducting the post mortem, where

on my direction Incharge Chowki Habbaran, S.I. Harpal Singh No. 1996/Ldh through his mobile number informed me that the deceased Bharti daughter of Narinder Pal post mortem was conducted, in which the doctor as given opinion that the cause of death of the deceased is not natural and the death is due to asphyxia due to smothering which is ante mortem and sufficient to cause death in ordinary cause of nature. On which myself SHO alongwith S.I. Manpreet Kaur No.51/LRT, S.I. Sandeep Kumar No.11/Ldh, H.C. Jasvir Singh No.3450/Ldh boarded in a scorio which was driven by PHG Kashmir Singh NO.19925 and reached at Civil Hospital, Ludhiana, where S.I. Harpal Singh No. 1996/Ldh alongwith H.C. Tajinder Singh No.3451/Ldh alongwith H.C. Jeet Kumar No.2070 met me there and in Civil Hospital the deceased father Narinder Pal s/o Gurmail Singh, r/o village Malpur, Banga Road, Nawanshahar at present resident of Kaka Ram Hari Chand, Khal Factory, Mullanpur Road, Habbaran, Ludhiana and his wife Pinki were present at Civil Hospital. That S.I. Harpal Singh, Chowki Incharge, Habbaran explained me the whole facts and proceeding under section 174 Cr.P.C. alongwith post mortem report were given to me. That the reason of cause of death is written "cause of death in this case is asphyxia due to smothering, which is ante-mortem & sufficient to cause death in ordinary course of nature. However viscera kept for chemical analysis as per request of police, swabs taken from external vaginal orifice & posterior cervix to rule out semen/spermatozoa & DNA as per police request. Regarding which myself S.H.O. investigate in death and these facts came into light that Pinki/Mother of deceased/Bharti was earlier marriage to Pawan Kumar s/o Suresh Kumar, r/o Sardulgarh, Distt. Mansa out of this wedlock one daughter namely Bharti was born. That in the year 2014, Pinki came in contact with Narinder Pal s/o Gurmail Singh, r/o village Malpur, Banga Road, Nawanshahar at present r/o Kaka Ram Hari Chand, Khal Factory, Mullanpur Road, Habbaran, Distt. Ludhiana and started living with him as husband and wife and Pinki gave birth to a male child namely Vikas out of the lions and his age is six years and Narinderpal did not like Pinki from her first marriage, due to which the dispute arise in the house. The above mentioned person in

order to conceal their guilt had given a false statement before police and was kept in dark on true facts to the police. From above mentioned facts, it came into lights that both husband wife/Narinderpal and Pinki had killed their daughter namely Bharti by strangulation after creating a pre-planned conspiracy. All the facts proved that Bharti was murdered by mother Pinki and step father/Narinder Pal. Pinki w/o Narinder Pal and Narinder Pal s/o Gurmail Singh, r/o above mentioned address, misguided the police regarding the death of Bharti by giving false statement, hence they had committed an offence u/s 302/120-B/182/34 IPC. The proceeding under section 174 Cr.P.C. is converted in FIR under above mentioned sections. Therefore, ruqa is sent to police station through H.C. Jeetu Kumar No.2070/Ldh for registering the FIR. The case be registered and number of the FIR be informed. The control room be informed. The special report be prepared and be sent to concerned Officer. Myself Inspector/SHO busy in investigation. Sd/- Satwant Singh/Inspector, SHO, P.s. Laddowal, Distt. Ludhiana dt. 21.06.2021 in the area of Civil Hospital, Ludhiana at 7.30 PM.”

2. Learned counsel for the petitioner vehemently contends that she is a biological mother of deceased Bharti and has been nominated as an accused without any incriminating material against her. The story put forth by the prosecution for committing murder of her own real minor daughter by strangulation with the help of 'Chunnis' out of greed for Rs.90,000/-, which is the amount to become due out of her Life Insurance Policy, which is submitted to be highly improbable, keeping in view the relationship of mother and daughter, who is also having a son aged 6 years.
3. The counsel for the petitioner further submits that merely on the basis of the confession statement made before the police by the petitioner and co-accused Narinder Pal, the petitioner has been roped in the commissioning of offence and except the postmortem report, which has recorded the cause of death to be a Asphyxia, which is anti-mortem and sufficient to cause death in the ordinary course

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of nature.

4. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. A copy of the same has been furnished to the counsel for the petitioner.

5. Learned State counsel on instructions from SI Gurmeet Singh opposes the submissions on behalf of the petitioner informing the Court that in fact, the petitioner and her ex-husband Pawan Kumar had purchased one plot for Rs.3,00,000/- on installment and paid Rs.1,49,000/-, but thereafter found it difficult to make the balance payments. It is on this account, expecting the amount of Life Insurance Policy to the tune of Rs.90,000/-, they conspired to kill minor girl namely Bharti aged 9 years, apart from the fact that Narinder Pal is the step father of deceased Bharti.

6. On a query put by this Court, learned State counsel had no answer regarding FSL report except the fact that the said report is inconclusive, as it does not reflect any kind of impression of finger prints of the accused-petitioner or ingredients of saliva of deceased, if at all her mouth was gagged with 'Chunni'.

7. Be that as it may, according to the custody certificate, the petitioner is behind the bars for the last 2 years, 2 months and 21 days and trial is almost at the fag end as all the material witnesses stand examined. This Court also cannot ignore the fact that the petitioner is a biological mother of the deceased and is also having another minor child aged 6 years.

8. The story put forth by the prosecution is not sufficient enough to inspire confidence of this Court at least for the purpose of considering the instant petition for regular bail. The principle of criminal jurisprudence "bail is a rule and jail is an exception" needs to be borne in mind by this Court alongwith the right to life as enshrined under Article 21 of the Constitution of India, as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court

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passed in *Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131*, particularly added with the fact that the petitioner is a lady of clean antecedents and thus it is highly improbable that merely for Rs.90,000/-, a biological mother would kill her own daughter and over and above had to use 2 'chunnis' to strangulate a minor girl.

8. In light of facts and circumstances, this petition deserves to be allowed.

9. Accordingly, the petitioner is directed to be released on regular bail on her furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

10. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

15.09.2023

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>