



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

**CRM-M-37435-2023 (O&M)
Date of Decision:24.02.2025**

Pushpa Devi ...Petitioner

vs.

State of Haryana ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. R.S Mamli, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J. (Oral)

CRM-7832-2025

1. Application is allowed as prayed for, subject to just all exceptions.
2. Annexure P-5 is taken on record.

Main case

1. The petitioner has filed the second petition under Section 439 Cr.PC with a prayer to grant regular bail to her in case FIR No. 435, dated 01.12.2021, registered under Sections 148,149,302 and 201 of IPC, Police Station Sadar Fatehabad, District Fatehabad.
2. The FIR in the present case was registered on the basis of the statement made by Anup Kumar son of Devi Lal and the same has been reproduced below:-

“To SHO P.S. Sadar Fatehabad it is requested that I

Anup Kumar son of Sh. Devi Lal caste Bishnoi I am resident of village Dhangar. I and the girl of my village Shiksha daughter of Mahender Sigh caste Rajput had performed marriage in Hanuman Mandir, Hisar in Court premises, Hisar on 09.10.2020 after the marriage I and my wife Shiksha started living separately in our own house. After two months Shiksha had got the job in Chandigarh Phillips Company. After one month I went to my wife Shiksha has started living in rented accommodation together. After 2-3 days earlier the family members of Shiksha came to know about our marriage. Shiksha has told all the stories over phone to her mother. Thereafter, their parents told to come to house otherwise we will be defamed in the entire village and we will marry you socially before the society. Thereafter, I and my wife has reached to our house at 5:30/6:00p.m. in our village Dhangar, thereafter, today on dated 30.11.2021 at about 5:40/5:00 p.m. I received a phone call of my religion sister that Shiksha has died and the family members of the Shiksha has took her for cremation I gave information on telephone on 112 that the family members of the Shiksha is not happy with the marriage therefore, Shiksha has been murdered by her parents, uncle Sunder, Kalu, Atma Ram and 2/3 others members of their family. Strict action be taken against them Sd/- Anup Kumar Attested Ajaib Singh 30.11.2021 from the application offence under Section 302, 201, 148, 149 of IPC is made out the FIR registered.

3. Learned counsel for the petitioner contends that the petitioner has not been named in the F.I.R and even during the course of investigation, no incriminating evidence could be collected against her. He further contends that in fact, the petitioner was not at all annoyed with the marriage of her daughter with the complainant and she had died a natural death. He further contends that even the allegations levelled by the prosecution are highly improbable and unbelievable and it was not possible to administer the poison to a young girl. By

relying upon the status report filed by Deputy Superintendent of Police, Fatehabad, learned counsel submits that as per the FSL report (Annexure R-1) aluminium phosphide was detected in the viscera, which was sent for examination. However, the entire record was produced before the doctors of Department of Forensic Medicine, M.A.M.C Agroha, and the doctors had opined that the exact cause of death cannot be given in this case. Even the burns were postmortem in nature and the HPE reports suggested that inflammatory changes in lungs. He further contends that in the present case, the police has failed to prove that it was a case of homicidal death and the petitioner has been falsely involved only on the basis of suspicion. Learned counsel further contends that the petitioner is in custody since 17.01.2022 and has been incarcerated for a period of over 03 years. Learned counsel further contends that only 10 witnesses out of total 42 witnesses have been examined so far and the prosecution has intentionally delayed the trial, so as to ensure the longer incarceration of petitioner in jail, without any lawful justification.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that it is a case of honour killing and the petitioner along with her other family members had killed her daughter as she had not performed the marriage as per their liking and due to this, all the family members had administered poison to the deceased and they were making an attempt to cremate the dead body in a ostensible manner.

5. I have heard the learned counsel for the parties and perused the record carefully.

6. In the present case, the present petitioner, who is the mother of the

deceased was not initially named in the FIR. In fact, during the cremation, the police arrived at the spot and the half burnt dead body was taken for examination by the doctors. Even, the viscera was sent to the FSL and as per the FSL report, aluminium phosphide was detected in exhibit 09. The report of Histopathology as well as the FSL were placed before the Head of the Department, Department of Forensic Medicine, who had given the following opinion:-

“In my opinion, the exact cause of death cannot be given in this case. However, burns are postmortem in nature and HPE reports showed inflamatory changes in lungs. So, I.O is instructed for due consideration of circumstantial evidence”.

7. In the present case, the petitioner has already been in custody for a period of over 03 years and the prosecution is yet to lead evidence with regard to the involvement of the petitioner in the present case.

8. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on her furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate.

9. It is clarified that above observations have been made only for the limited purpose of disposal of the bail application and the Trial Court shall decide the trial, on the strength of the evidence lead by the parties, without getting influenced by the above observations.

24.02.2025
hitesh

(N.S.SHEKHAWAT)
JUDGE

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