

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

**Criminal Misc. No. M-21270 of 2015
Date of Decision: 31.07.2015**

Mahender Singh

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. Preetinder Singh Ahluwalia, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. Ashit Malik, Advocate for the complainant.

HARI PAL VERMA J.(Oral)

Prayer in the present petition filed under Section 439 CrPC is for grant of regular bail to the petitioner namely Mahender Singh, resident of Kunjpura, presently residing at House No.342, Sector 8, Karnal, District Karnal in FIR No.40 dated 6.2.2015 (Annexure P1) under Sections 304-B, 306/120-B IPC, registered at Police Station Pundri, District Kaithal.

The case was registered on the complaint of Ishwar Singh, father of the deceased namely Sonia. In the FIR, the

petitioner, who is father-in-law of the deceased, has been nominated as one of the accsued. It has been averred that his daughter Sonia was married with Ajay Attri on 21.2.2014 and he has given dowry, jewellery and other items as per his capacity. The accused demanded money from his daughter Sonia (the deceased) and the complainant after collecting Rs.8,00,000/- from his relatives, gave it to the accused namely Ajay Attri (son-in-law), Mahender Singh (father-in-law) and Nirmala (mother-in-law) at their house in Karnal, but the in-laws again demanded money from the complainant. The complainant convened a panchayat, but the in-laws kept on demanding. On 23.9.2014, when the complainant's daughter Sonia (deceased) was beaten by her husband, mother-in-law and father-in-law and was shunted out from the matrimonial house by saying that she will come back home only with Rs.10 lacs, the deceased narrated this incident to her parents. The complainant visited the house of the in-laws of his daughter 3-4 times to settle his daughter, but they asked him not to bring her to their house without fulfilling their demand of dowry of Rs.10 lacs. On 4.2.2015, when the daughter of the complainant Sonia was 8-9 months pregnant, the complainant again took her to her in-laws house at Karnal and convened a Panchayat, but they flatly refused to keep her in their house. On 4.2.2015, Sonia was upset and was felt insulted. On 6.2.2015, when the complainant along with wife had gone to fields and his son Balwinder had gone to the village at around 10-00 A.M.,

Balwinder came to the house, he saw that door of the living room (baithak) was closed. He tried open the door but it could not be opened. He banged the door with his leg, due to which, it got opened. He saw that Sonia was lying on the floor. It was noticed that she was in unconscious state and a paper was lying there adjoining her. It was found to be a suicide note written by deceased Sonia, holding her husband Ajay Attri, father-in-law Mahender Singh, mother-in-law Nirmala, Mama Rajpal and Mausea Gurdayal responsible for this incident.

It is on the aforesaid facts, stated in the FIR, the petitioner has filed the present petition seeking regular bail during the pendency of the trial.

Learned counsel for the petitioner contends that apart from the fact that the petitioner is father-in-law of the deceased, it was second marriage between Ajay Attri (husband) and Sonia, (deceased-wife) and it was a dowryless marriage. Deceased Sonia was granted divorce in the earlier marriage by the Court of Additional Civil Judge (Sr. Divn.), Kaithal vide judgment dated 19.2.2014. In that case, she was married with one Surinder son of Balbir Singh, resident of Village Pabnawa, Tehsil and District Kaithal. Immediately after two days of the divorce, she got married with Ajay Attri, the son of the petitioner, on 21.2.2014. Learned counsel further submitted that the suicide note, as being projected by the complainant, is highly doubted, as the FSL report is yet to be received. Every family

member including the distant relations like Mama-in-law and Mause-in-law of the deceased have been named. However, during investigation, Mama Rajpal and Mause Gurdial have been found to be innocent by the police, which is sufficient to derive presumption that the story propagated by prosecution is totally false.

Learned counsel for the petitioner further contended that the petitioner is a retired Bank Manager of 65 years of age. He has suffered brain stroke in the year 2007 and presently, practicing as an advocate. He had already disinherited his son and daughter-in-law vide public notice dated 10.1.2015 published in 'Amar Ujala' newspaper and therefore, the allegations of demand of dowry *qua* him, in any manner, are false and motivated. It is contended that so far as suicide note is concerned, in the absence of any FSL report, such note loses its credibility.

Learned counsel for the petitioner while relying upon a judgment of Hon'ble the Apex Court in the case of **Kans Raj v. State of Punjab and others 2000(2) RCR (Criminal) 695** submits that in order to meet the ingredients of Section 304-B IPC, (i) the prosecution has to prove that the death was caused by burns or bodily injury; (ii) the death should have occurred within seven years of the marriage (iii) the deceased should have been subjected to cruelty or harassment by her husband or by any relative of her husband; (iv) such cruelty or harassment should be for or in connection with demand of dowry and (v) such cruelty or harassment

should have been subjected to soon before her death. It is argued that since deceased was already staying with her parents from 23.9.2014 and at the time of death i.e. on 6.2.2015, she was with her parents (complainant), therefore, it cannot be said that she was subjected to any cruelty or harassment soon before her death. While making a reference to para 5 of the judgment of Hon'ble Apex Court in **Kans Raj v. State of Punjab and others** (*supra*), it is contended that for the fault of the husband, the in-laws or the other relations cannot, in all cases, be involved in the demand of dowry. In cases where such accusations are made, the covert act attributed to persons other than the husband, are required to be proved beyond reasonable doubt. By mere conjectures and implications, such relations cannot be held guilty for the offence relating to dowry deaths. A tendency has developed for roping in all the relations of the in-laws of the deceased wife in the matters of dowry deaths, which if not discouraged, is likely to affect the cases of the prosecution even against the real culprits.

On the other hand, learned counsel appearing for the complainant stated that it is on account of demand of dowry and for feeling insulted, the deceased Sonia has committed suicide. He further stated that at the time when she committed suicide, she was carrying pregnancy of 8-9 months. The accused has refused to keep their daughter-in-law Sonia in their house and kept on insisting their demand for dowry. The accused have created such circumstances

which led to commission of suicide by the deceased Sonia within one year of marriage.

Learned State counsel has also joined the arguments raised on behalf of learned counsel for the complainant. He submitted that in the present case, though the marriage took place on 21.2.2014, the deceased Sonia died on 6.2.2015 i.e. within less than a year, which is sufficient to presume that the present is a case of dowry death.

I have heard learned counsel for the parties.

The petitioner who is father-in-law of the deceased is aged about 65 years. Though there are allegations against the petitioner in the suicide note, but the FSL report of the suicide note is yet to be received. There is a public notice dated 10.1.2015 published by the petitioner in '*Amar Ujala*' newspaper, whereby the petitioner has disinherited his son Ajay Attri as well as daughter-in-law Sonia.

The petitioner is in custody since 27.2.2015 and the FSL report relating to genuineness of the suicide note is yet to be received, coupled with the fact that completion of trial will take sufficient long time, in the case, I deem it appropriate to allow the concession of regular bail to the petitioner during the pendency of trial.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing of bail

bonds/surety bonds to the satisfaction of the trial Court.

However, it is made clear that the observations made here-in-above shall not be construed any expression on the merits of the case in any manner and the same are confined only to the decision of the present bail application and the trial Court shall not be influenced from any observation made above.

Accordingly, the present petition is allowed in above terms.

July 31, 2015
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(HARI PAL VERMA)
JUDGE