

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23464 of 2016

Date of Decision:- 09.08.2016

Tarun Malhotra

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. Sanjay Verma, Advocate,
for the petitioner.**

Ms. Mahima Yashpal, AAG, Haryana.

**Mr. Mandeep Kumar, Advocate
for Mr. Jatinder Chaudhary, Advocate
for the complainant.**

RITU BAHRI, J. (Oral)

Present petition has been filed for the grant of regular bail to the petitioner in case arising out of FIR No.182 dated 18.03.2016 under Sections 306, 498-A read with Section 34 IPC registered at Police Station Sector 10-A, Gurgaon.

The marriage of the petitioner was solemnized with the deceased Radhika on 05.12.2004. She was living happily with the family of the petitioner. No child was born out of this wedlock and for that purpose

the petitioner continuously got treatment of deceased and details of the

medical record show that she was being treating as per medical reports (Annexure P-2). There was no complaint with regard to maltreatment of the deceased either with the police or to any family member for the last 12 years.

On 17.03.2016, a telephonic information was received from Aryan Hospital, Gurgaon to the effect that one Radhika, wife of Tarun, resident of H.No. 512, Sector 9, Gurgaon had been admitted. ASI Ghanshyam reached that hospital and obtained *rukka* and MLR. Then, he got the opinion of the doctor for recording the statement of the injured and the doctor declared the injured unfit to make her statement. On 18.03.2016, ASI Ghanshyam, had received information with regard to the death of Radhika. Thereafter, complainant-Sumit Midha got his statement recorded with ASI Ghanshyam that his younger sister Radhika alias Anu was married to Tarun as per Hindu Rites and Ceremonies and his sister did not have any child for the last 10-11 years. She committed suicide on 17.03.2016 by consuming poisonous substance. The petitioner was arrested on 22.05.2016.

The regular bail application filed by the petitioner was declined by the Additional Sessions Judge, Gurgaon on 08.07.2016 keeping in view that death of deceased Radhika was caused in her matrimonial house in unnatural circumstances after 11-12 years of her marriage. She had been tortured by her in-laws as she could not bear a child, which led to abetment of suicide. The investigation was in progress with serious allegations against the petitioner.

Learned State counsel, on instructions from ASI Ghanshyam, has informed that after presentation of the challan, charges have been framed on 18.07.2016. There are 18 witnesses which are yet to be examined.

She further informed that an application for further investigation has been made before the Chief Judicial Magistrate under Section 156(3) Cr.P.C., which is pending for final decision.

Reference, at this stage, can now be made to a judgment of Delhi High Court in Dr. Mohd. Sohail Fazal Vs. State (Govt. of Nct of Delhi), 2012(5) R.C.R. (Criminal) 126 whereby there was no suicidal note and no complaint or action by deceased or her relatives against the petitioner for the alleged harassment or abetment prior to her death. Consequently, the anticipatory bail was granted to the petitioner keeping in view the law laid down by Hon'ble Supreme Court in Gurbax Singh Sibbia Vs. State of Punjab, AIR 1986 SC 1632.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

In the facts of the present case, the petitioner has married to the deceased way back in the year 2004. There was no complaint made either by the deceased or her family members with regard to the harassment prior to the death of the deceased. There was no suicide note and the question whether mere harassment itself would amount to an offence under Section 306 IPC would be a moot to be decided at the final stage of the trial. Moreover, the trial at this stage of recording of prosecution evidence and the decision is pending on the application under Section 156(3) Cr.P.C.

The petitioner was arrested on 22.05.2016. Since then, he is in judicial custody and no useful purpose would be served to further detain him in jail. The final conclusion of trial will take a long time.

In view of above facts, the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing

adequate bail bonds and surety bonds to the satisfaction of learned trial Judge/Duty Magistrate, Gurgaon.

Needless to mention that, nothing observed here-in-above, would reflect, on merits in the trial of the main case, in any manner.

August 09, 2016
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No