

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

**Criminal Misc. No. M-4256 of 2016
Date of decision: 10.03.2016**

Kapil Kumar

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No**
- 2. To be referred to reporters or not? Yes/No**
- 3. Whether the judgment should be reported in the Digest? Yes/No**

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

Ms. Trishanjali Sharma, AAG, Haryana
for the respondent – State.

Daya Chaudhary, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. on behalf of petitioner-Kapil Kumar for grant of regular bail during pendency of trial in FIR No.69 dated 05.06.2015 registered under Sections 323, 506, 498-A, 304-B and 302 read with Section 34 of Indian Penal Code at Police Station Buria, District Yamuna Nagar.

Learned counsel for the petitioner submits that as per allegations levelled in the FIR, no offence is made out against the petitioner as the deceased left her matrimonial house on 25.04.2015. As per MLR, no injury was found on the person of the deceased and the deceased was suffering from Tuberculosis and was taking

treatment from the hospital since March 2015. Learned counsel further submits that as per opinion of the doctor, the death occurred because of Tuberculosis. There was no demand of dowry or harassment. The FIR was registered at the instance of father of the deceased but while appearing in the Court, he has specifically stated that there was no demand of dowry and his daughter died because of Tuberculosis. Similarly, uncle of the deceased has also not supported the case of the prosecution. Learned counsel also submits that co-accused of the petitioner have been released on regular bail. The petitioner is in custody since 03.07.2015 and no purpose would be served in case, he is kept behind the bars as both the material witnesses including the complainant have not supported the case of the prosecution.

Learned State counsel has not disputed the submissions made by learned counsel for the petitioner to the extent that the complainant-father of deceased as well as uncle have not supported the case of the prosecution and also the opinion given by the doctor that the death occurred due to Tuberculosis.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the allegations levelled in the FIR as well as the statement of complainant-father of deceased and uncle.

Keeping in view the submissions made by learned counsel for the petitioner and also the fact that the material witnesses have not

supported the case of the prosecution; as per opinion of the doctor, the cause of death was Tubercular Pathology; the petitioner is in custody since 03.07.2015; there was no injury on the person of the deceased; there is no possibility that the petitioner may influence the witnesses as the material witnesses have already been examined and the fact that co-accused of the petitioner (Parents-in-law) have been released on regular bail, the present petition is allowed and the petitioner (Kapil Kumar) is directed to be released on regular bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court.

10.03.2016
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(DAYA CHAUDHARY)
JUDGE