

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-436 of 2016 (O&M)

Date of Decision: 13.01.2016

Jai Parkash

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. S.K. Garg Narwana, Sr. Advocate with
Mr. Deepak Hooda, Advocate for the petitioner.

Mr. Anmol Malik, A.A.G., Haryana.

TEJINDER SINGH DHINDSA.J

Petitioner seeks the benefit of regular bail pending trial in case
F.I.R. No.197 dated 9.4.2014 under sections 302, 201, 34 I.P.C registered at
Police Station, Sadar Fatehabad, District Fatehabad.

Learned counsel for the parties have been heard.

F.I.R came to be registered on the statement of Vijay Kumar
son of Mahabir Parsad in regard to his uncle's daughter namely Sonal.
Sonal was stated to have been married to the present petitioner about 7 years
prior to the registration of the F.I.R. Out of the wedlock two children i.e.
daughter Khushi aged 5 years and a son Nikunj aged 3 years were born.
Complainant had alleged that his cousin sister Sonal had been harassed on
“petty domestic issues” by her husband Jai Parkash, present petitioner,
brother in law Bobby, sister-in-law Sunita and father-in-law Mangat Ram.
Complainant stated that one day prior to the registration of the F.I.R i.e. on
8.4.2014 at about 7 P.M he got a call from his uncle i.e. Devi Dayal, father-
in-law of the present petitioner that a call had been received from Jai
Parkash that Sonal is missing since 2' O clock in the afternoon along with
the two children. Bodies of Sonal as also both the children were taken out

from water near Badopal Johar. Injury marks were stated to be there on the face of Sonal and there were no injury marks stated to be on the bodies of the children. Specific allegation was that the present petitioner along with his brother, sister and father had killed Sonal by causing injuries and by throwing her along with children in a water body. Motive attributed, as per complainant, was harassment by the husband i.e. the present petitioner on account of petty domestic issues.

Petitioner has been in custody since 12.4.2014. Learned senior counsel has adverted to the Post Mortem Report of Sonal, wherein it has been opined that the injuries on the body of deceased Sonal were post mortem in nature. It was further opined that possibility of infliction of such injuries by animal bite cannot be ruled out.

During the course of trial Devi Dayal i.e. father of deceased Sonal has been partly examined as PW-5. It would be pertinent to take note that it is for the first time that an allegation has surfaced with regard to the petitioner having harassed his wife i.e. deceased Sonal as regards dowry.

It has gone uncontroverted that there have been no allegations of demand of dowry or any complaint either at the hands of deceased Sonal or any of her family members as regards harassment/demand of dowry during the subsistence of the marriage over seven long years.

Perusal of the F.I.R based on complaint and statement of Vijay Kumar would also reveal that an attempt has been made to rope in the entire family by stating that Sonal as also children have been killed by Jai Parkash, present petitioner, Bobby, brother-in-law, Sunita, Sister-in-law and Mangat Ram, father-in-law. Suffice it to notice that apart from Jai Parkash the other family members were found innocent during the course of investigation and

as such, were not even nominated as accused. It also stands conceded that an application filed under Section 319 Cr.P.C to summon the brother-in-law, sister-in-law and father-in-law of deceased Sonal as additional accused has been dismissed by the Trial Court. Court has been apprised that a revision petition against the order of the Trial Court declining the application under Section 319 Cr.P.C has been filed before this Court.

The trial is still at the very initial stage and would take time to conclude.

The issue as to whether offence under section 302 I.P.C is made out against the petitioner would be a moot question to be considered during the course of trial.

In view of the circumstances noticed herein above and coupled with the length of incarceration already suffered by the petitioner, this Court is of the considered view that the petitioner is entitled to the benefit of regular bail. Present petition is, accordingly, allowed.

Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, Fatehabad.

It is, however, clarified that the observations contained in this order are confined only as regards consideration of the prayer of the petitioner for grant of regular bail and would have no bearing on the merits of the case.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

13.01.2016
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