

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

CRM-M No. 39259 of 2015(O&M)

Date of decision: 7.4.2017

Brij Pal

....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. S.S. Behl, Advocate for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. A.P.S. Deol, Senior Advocate with
Mr. Abhimanyu Singh, Advocate for the complainant.

REKHA MITTAL, J.

The petitioner prays for grant of pre-arrest bail in FIR No.118 dated 10.10.2015 registered under Sections 498-A, 304-B read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC') at Police Station Tigaon, District Faridabad.

As per the allegations brought-forth by the complainant, his daughter was married to son of the petitioner on 20.11.2013. He (complainant) spent huge amount beyond his capacity and had given sufficient dowry but the petitioner and members of his family were not satisfied with the dowry. Sumesh was harassed by her husband (Jaiveer), father-in-law (petitioner herein), mother-in-law and sister-in-law for bringing less dowry and on account of demand of Rs.21 lakhs in cash and Fortuner car. In the month of July/August 2014, Sumesh was given severe beatings by her in-laws' family and the complainant brought her back to

his house and got her treated at Sumit Hospital Gurgaon. At the asking of responsible persons of the society and assurance given by the petitioner and his family members that they will not harass Sumesh in future, she was sent back to her in-laws' house 2 – 2½ months before the occurrence. Sumesh died an unnatural death on 10.10.2015 during her stay in the matrimonial home.

Counsel for the petitioner has submitted that on 25.01.2016, the petitioner was allowed interim bail by this Court and in pursuance thereof, he has already joined investigation. The petitioner was declared innocent by the Investigating Officer as well as in the first inquiry conducted by the CIA Staff. Further argued that the law does not permit conducting of successive inquiries, therefore, any findings recorded in the inquiry conducted by the Crime Branch indicting the petitioner is of no consequence.

Another submission made by counsel is that the deceased was suffering from mental ailment including depression even before her marriage as is apparent from prescription issued by Confidence Clinic of Dr. Ashish Kumar Mittal, copy whereof is available at page 70 of the paper-book. The deceased could not conceive and for that reason, her mental condition further deteriorated. Even on the day of occurrence i.e. 10.10.2015, the deceased was taken to Geeta Hospital, Faridabad and the receipt with regard to consultation fee is available at page 69 of the paper-book. In addition, it is argued that on completion of investigation challan has been presented against Jaiveer, husband of the deceased. Custodial interrogation of the petitioner is not required and he is ready to face the proceedings, in accordance with law.

Counsel representing the State of Haryana and Sh. A.P.S. Deol, Senior Advocate for the complainant have opposed the prayer for bail with the submissions that in view of gravity of allegations raised against Jaiveer and his parents qua demand of dowry and harassment to the deceased in connection thereof which forced the deceased to take the extreme step to eliminate herself at a young age of less than 25 years, the petitioner is not entitled to concession of pre-arrest bail. Further argued that marriage was performed in November 2013; the girl was brought back to her parental home in July/August 2014 as she was given beatings by her husband and in-laws' family members and was got treated from Samriti Hospital, Faridabad. She was sent back to the matrimonial home just 2 - 2½ months before the occurrence and committed suicide on 10.10.2015.

The document with regard to any mental ailment to the deceased prior to her marriage and pressed into service at the time of notice of motion and grant of interim bail has been found to be false and fake in view of statement of Dr. Ashish Kumar Mittal, examined during investigation. It is vehemently argued that as the petitioner is guilty of mis-stating a material fact in regard to mental ailment of the deceased by relying upon a false document, he otherwise has disintitiled himself to indulgence of this Court in exercise of discretionary jurisdiction. The last submission made by counsel is that custodial interrogation of the petitioner is required to elicit the circumstances under which the deceased was compelled to kill herself within less than 2 years of marriage.

I have heard counsel for the parties, perused the paper-book and the police records.

A casual look at the order of notice of motion and grant of interim bail dated 25.01.2016 passed by this Court would evident that one of the submissions by Sh. Arun Bhardwaj, Senior Advocate was that even before marriage, daughter of the complainant was taking treatment for mental ailment including depression. She was suffering from depression as she was not in a position to bear a child.

Counsel for the petitioner has nothing to say to controvert the submission made by counsel for the State that plea of the petitioner that the deceased was suffering from any mental condition and getting treatment in regard thereto on the basis of document purported to be issued by Confidence Clinic of Dr. Ashish Kumar Mittal gets falsified and belied in view of statement of said doctor recorded during investigation. There is no other document produced by the petitioner that the deceased was suffering from depression as she did not conceive. There is no material on record that the petitioner had been residing separately or had nothing to do with the marital affairs of the deceased and Jaiveer, his son. There are grave and serious allegations levelled against the petitioner.

As per the settled position in law, bail in anticipation of arrest is a concession to be allowed by the Court if the Court arrives as a conclusion that a false case has been registered due to political vendetta or wreck vengeance. Equally true is that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who has protection with a favourable order under Section 438 Cr.P.C. In a case like this effective interrogation of suspected person is of tremendous advantage in extracting useful information and materials which would have been

concealed. That being so, the petitioner does not deserve to be extended concession of pre-arrest bail.

For the foregoing reasons, the petition fails and is accordingly dismissed.

Any observations made hereinabove would be confined to disposal of the petition and would not be construed as an expression of opinion on merits, to cause prejudice to either of the parties, during trial.

APRIL 7, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no