

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Criminal Misc. No. M-4393 of 2017 (O&M)

Date of decision : April 03, 2017

Ravneet Garg

..... Petitioner

VERSUS

Central Bureau of Investigation

..... Respondent

CORAM : HON'BLE MR. JUSTICE A.B. CHAUDHARI

PRESENT: Mr. S.K. Garg Narwana, Sr. Advocate, with
Mr. Virat Amarnath, Advocate, for the petitioner.
Mr. Sumeet Goel, Advocate, Retainer Counsel, for the
CBI.
Mr. Bipan Ghai, Sr. Advocate, with
Mr. Paras Talwar, Advocate, for the complainant.

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1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO
2. To be referred to the Reporter or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

Per A.B. Chaudhari, J.

This is a petition for grant of regular bail filed by petitioner-Ravneet Garg, Civil Judge (under suspension), in FIR No. RC 6(S)/2013-SCU.I lodged on 07.08.2013 under Sections 302/34, 304-B, Indian Penal Code, in which challan has been presented under Section 120-B read with Sections 304-B, 498-A, Indian Penal Code, and Section 30 of the Arms Act.

Facts :

The petitioner was married to deceased-Gitanjali on

03.11.2007. She gave birth to two daughters. Petitioner-Ravneet Garg is working in the Subordinate judiciary and was, at the relevant time, posted at Gurgaon. He was residing in the Government quarter along with Gitanjali and two daughters. On 17.07.2013, between 4.15 p.m. to 5.15 p.m., at a distance of about 1 kilometer from Police Lines, Sector 15, Gurgaon, the dead body of Gitanjali was found lying on the ground of Police Lines. According to the petitioner, at that time i.e. the time of the occurrence, he was attending Video Conference along with 18 other judicial officers, conducted by the Chief Justice of Punjab and Haryana High Court. On 20.07.2013, Pradeep Kumar Aggarwal, real brother of Gitanjali, lodged a report with the Police Station, Civil Lines Gurgaon and FIR No.501 was registered on his information under Sections 302, 304-B, 34, Indian Penal Code. It was stated in the F.I.R. that Gitanjali was murdered as she could not commit suicide. According to the petitioner, he had made a complaint on the intervening night of 17/18.07.2013 and that the same was allegedly reduced into writing. The post mortem was got conducted after recovery of the dead body by the police and it was found that she had suffered four bullet injuries. Out of two injuries, one bullet entered from the front of the neck and exited from the skull and the second bullet entered from the front chest and exited from the back of the deceased. During investigation, the Haryana Police recovered four bullets from the place of incident and sent the same for F.S.L. Examination at Madhuban and a report was

submitted by the F.S.L. The report showed that two weapons were used in the crime. One was country made pistol while the other was a revolver. Ballistic report has also been received. From the investigation conducted by the Haryana Police and as per the case of the petitioner, some other person was involved in the commission of the crime and the petitioner believes that it was a case of murder of his wife but the petitioner cannot be implicated by invoking the provisions of Section 304-B, Indian Penal Code. On 04.01.2014, the Haryana Police published an advertisement in a newspaper 'The Tribune' that Gitanjali was murdered on 17.07.2013 and a reward of ₹ 5 lacs would be given for giving any clue. The petitioner or his family members never demanded any dowry from the deceased or her family members nor harassed her at any point of time. The Investigating Officer interrogated the petitioner along with his parents and family members. Not only that, the case was handed over to the CBI and interrogation was also made by the CBI, New Delhi on a number of occasions. The interrogation was even video recorded. According to the petitioner, even complainant-Pradeep Kumar and his father-Om Prakash Aggarwal had given an interview on 06.08.2013 that they had given everything in the marriage of their own sweet will and that the deceased had not committed suicide. The petitioner and the deceased lived together for more than 5-1/2 years and she had never left her matrimonial home nor made any complaint to the complainant or his family members about the maltreatment

or cruelty, which belies the prosecution case for commission of alleged offence under Section 304-B, Indian Penal Code. After filing of the challan, the trial court took cognizance but the petition for bail has been rejected by the trial Court. Hence this petition.

In support of the petition for grant of bail, Shri S.K. Garg, learned Senior counsel for the petitioner, vehemently contended that immediately after the occurrence had taken place, the Haryana Police had taken up the investigation and completed it and found no role of the present petitioner in the alleged crime. It is only after a few days that the investigation was transferred to the CBI which also interrogated all the concerned persons but did not find any substance about the allegations that the petitioner had committed any offence. The brother and parents of Gitanjali did not make any grievance at any point of time about the demand of dowry, as alleged, nor any complaint was filed during the period of 5-1/2 years with any police station or any relative. Even when the dead body was cremated on 18.07.2013, everything was all right and neither the brother of the deceased nor her parents made any grievance or complaint against the petitioner or against any of his family members. It is by way of an after thought that the FIR was lodged by her brother and Section 304-B, Indian Penal Code, was added, on 27.07.2013. The petitioner had joined investigation not less than 10 times and had fully cooperated. The petitioner was arrested for the first time on 07.09.2016 i.e.

almost after 3 years and there is no complaint about any tampering against the petitioner or against his family members with the investigation and, thus, in the absence of any complaint against the petitioner for over three years and the challan having been filed, no useful purpose would be served by his continuous detention in the jail as an undertrial as the trial will take its own time. No recovery was made from the petitioner. The petitioner was in the custody of the CBI for 5 days and has been in judicial custody since 13.09.2016.

Learned Senior counsel for the petitioner, then, referred to various statements of Peons who were working with the petitioner at various stations. Learned Senior counsel for the petitioner also referred to the statements of the senior judges working with the petitioner at the relevant time and, in particular, PWs 58, 78, and 79, all Additional District and Sessions Judges, Gurgaon, who clearly stated about the good conduct of the petitioner throughout and fine relations of the petitioner with his wife and children. According to the learned Senior counsel for the petitioner, the allegations against the petitioner are highly improbable and his detention in jail in the wake of the above disclosures made by the senior Judges would be wholly unjust and unjustified. He, therefore, prayed for grant of regular bail.

Per contra, learned counsel for the CBI vehemently opposed the petition for grant of regular bail. Learned counsel for the CBI submitted that in all six empty shells were recovered

from the spot. One country made pistol and one licensed revolver belonging to the petitioner have been seized. Ballistic report shows the use of the revolver belonging to the petitioner. The FIR lodged by Pradeep Kumar Aggarwal, the brother of the deceased, and the statements recorded by the CBI thereafter from time to time, in clear terms show the involvement of the petitioner and his parents in the offences for which the challan has been filed. According to him, the petitioner is under an obligation to explain under what circumstances the incident took place as the death took place within seven years of the marriage and, therefore, a presumption is raised against the petitioner. According to him, the prosecution has several witnesses whose statements clearly reveal the offences. According to him, there is every likelihood of the petitioner tampering with the prosecution evidence and that is fortified by the fact that from the date of the occurrence till handing over of the investigation to the CBI, the Haryana police did not make the correct investigation and, on the contrary, gave a long rope to the petitioner and his family members only because of the status that the petitioner and his family members enjoy. The learned counsel contended that the father of the petitioner is a retired District Judge, presently holding the post of a Presiding Officer of a Tribunal, and the petitioner is a Civil Judge in the Subordinate judiciary. All the accused are highly influential and fair trial would definitely be affected if the petitioner is released on bail. He submitted that

both the father and mother of the petitioner are also arrayed as accused in the challan and there is strong evidence against all of them. The release of the parents on bail cannot help the petitioner, they being old persons. Finally, he prayed for dismissal of the bail petition.

Gitanjali, a well educated girl's saga is pathetic. Judiciary and its members are held in high esteem in the society; but in the words of Om Prakash Aggarwal, Gitanjali's father, vide news report, "we thought marriage to a Judge would lend us status It was our big mistake".

The father of the petitioner is said to be a former District Judge, now holding the post of a Presiding Officer of a Tribunal. To adumbrate, the investigations made by the CBI reveal a sordid state of affairs that the petitioner and his parents were unhappy with Gitanjali because she delivered both the 'girl children' and was treated with disdain particularly when she delivered second female child. For the purpose of decision of the present petition, the same may not be much relevant as the charge levelled against the petitioner by the CBI is for commission of offence under Section 304-B, Indian Penal Code, which reads, thus:-

“304B. Dowry death. - (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall

be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

Explanation.—For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.”

From the reading of the above provision, it is clear that the offence of dowry death is punishable with imprisonment for life and the sentence not less than seven years. It is, thus, clear that the offence is very serious. It is also not in dispute that the death was caused within seven years of the marriage. In this view of the matter, a clear-cut presumption is raised against the petitioner, his father and mother and the presumption can be rebutted by the defence only during the trial. The submission made by the learned senior counsel for the petitioner to show that the presumption was rebutted, prima facie even at this stage also or that there is no prima facie case for holding the petitioner guilty of commission of offence under Section 304-B, Indian Penal Code, does not appeal to me. That is a matter of trial and the petitioner and his parents would be entitled to rebut the presumption by suitable evidence or as the case may be.

It is also not in dispute and rather it is, prima facie, evident that the licensed revolver of the petitioner was used in the commission of the crime in question along with a country

made pistol. Injuries by revolver and pistol are on vital parts of the body and, prima facie, it appears that after firing one shot on the chest, another shot on the neck or head could not at all be possibly fired by herself. She has met a very cruel death, particularly when six shots were fired on her. The petitioner has not come up with any prima facie explanation as to how his licensed revolver was utilised when the revolver was in his custody and a licensed revolver holder is bound to keep the revolver in safe custody away from the approach of any other person. It is not his case that his revolver was stolen by somebody or that the place where the revolver was kept by him was broken by somebody. This is the evidence which has high probative value with the aid of Section 106 of the Evidence Act. Therefore, the death of Gitanjali is not in normal circumstances and it is disturbing that the woman had to die with severest cruelty. It is very significant to note that neither the petitioner nor his Judge father has produced any evidence on record that they had lodged any FIR with any police station if he was really convinced that his wife-Gitanjali was murdered by somebody. No such FIR has been shown to this Court. What is claimed by the petitioner is that he had told the police accordingly when his statement was recorded. This clearly shows the conduct of the petitioner and his parents who had scant regard and chagrin for Gitanjali.

Now, coming to the evidence collected by the CBI as to Section 304-B, Indian Penal Code, the statements of the

witnesses have been seen by me with the assistance of the learned counsel for the rival parties. There are many aspects of evidence that satisfy the ingredients of Section 304-B, Indian Penal Code. It is not only against the petitioner that there is a prima facie evidence but with the help of Sections 107 and 109, Indian Penal Code, the petitioner's father and mother both appear to be, prima facie, responsible for the abetment. Statements of the following persons have been recorded by the CBI, which are relied upon by the CBI :-

1. Pradeep Aggarwal;
2. Sarita Aggarwal;
3. Om Prakash Aggarwal;
4. Sheelawati Aggarwal;
5. Sujata Gupta;
6. Maitri Bansal;
7. Gargi Jindal;
8. Rajender Gupta;
9. Rajiv Bansal;
10. Amit Jindal;
11. Dhanraj; and
12. Rajkumar.

I have gone through all the statements and I find that there is an overwhelming evidence against the petitioner and his parents for commission of offences under Sections 107, 109, 304-B, 120-B read with Section 34, Indian Penal Code. It appears from the statements that at the time of the marriage of

the petitioner with Gitanjali, a Skoda car was given to him. That is O.K. But then, after the marriage and during the matrimonial life of Gitanjali with the petitioner, another Skoda Superb car was demanded by the father and mother of the petitioner worth ₹ 22 lacs, that was given in April, 2008 and that was being used by the petitioner's younger brother Navdeep Garg. Prima facie, this is an evidence against the entire family of the petitioner that the petitioner's father and mother demanded the car so that their younger son Navdeep could use it. The father of the petitioner is a retired District Judge and holding a responsible post as a Presiding Officer of a Tribunal. He ought to have prevented all this nay it was his onerous duty. It does not behove anybody including the petitioner to have a second car for his younger brother a year after Gitanjali's marriage. The CBI has brought on record the statements of various persons, including Amit Jain, Monika Jain wife of Amit Jain, Pradeep, Om Prakash and his wife, in which it is stated that the petitioner and his father and mother in the year 2011, demanded a plot of 300 square yards in Omaxe City, Sonipat when petitioner was posted at Panipat. In accordance with the directions from the petitioner, the brother and father of the deceased purchased the plot in the name of Monika Jain by depositing ₹ 16.30 lacs in the account of Monika Jain. Monika Jain, thereafter, transferred the said plot in the name of the petitioner as per his plan on 08.07.2013. The prosecution has documentary evidence about the transfer of the plot in the name of the petitioner. I find that this is a very

strong evidence against the petitioner and his father and mother. They further state that the father, mother and the petitioner had demanded ₹ 50 lacs from Gitanjali's parents when they purchased a house (No.63), Sector 25, Panchkula, for which Gitanjali was troubled. Since this Court finds that there is a prima facie evidence against the petitioner, as discussed above, there is no further need to dwell upon it. It is also seen that the provisions of Section 113-B of the Indian Evidence Act are clearly attracted against all the accused. Hence I find that the petitioner would not be entitled to grant of regular bail.

Tampering of evidence can be done in a number of ways, including tendering apology, touching feet of the witnesses and so on and so forth. This is usually done in such type of cases since the witnesses are mostly relatives and close friends. It is, therefore, risky to release the petitioner on regular bail and the only option in my opinion is to expedite the trial. The reference made by the learned Senior counsel for the petitioner about his plea of alibi and the statements of Judges senior to the petitioner or his staff about the behaviour of the petitioner with his wife is nothing but in the form of defence which cannot be considered at this stage. In that view of the matter, the following order is inevitable :

ORDER:

- i) Criminal Misc. No.M-4393 of 2017 for bail is dismissed;
- ii) The trial Court is directed to frame the charge

against the accused persons within a month from today and conclude recording of evidence within a period of six months.

iii)None of the observations made in this order shall influence the trial Court nor the same should be treated as expression of opinion on merits of the case.

April 03, 2017
Kang

(A.B. CHAUDHARI)
JUDGE