

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

1. CRM-M No.30091 of 2018

Sonia Kumari & another

... Petitioners

Versus

State of Punjab & another

... Respondent

2. CRM-M No.36197 of 2018

Raj Kumar

... Petitioner

Versus

State of Punjab

... Respondent

Date of decision: 26th October, 2018

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Ms. Narender Kaur, Advocate for the petitioners.

Mr. Dhruv Dayal, Sr. Dy. Advocate General, Punjab
for the respondent/State.

Mr. Jitender Dadwal, Advocate for the complainant.

FATEH DEEP SINGH, J.

The above two bail applications, bearing CRM-M-30091-2018 by Sonia Kumari (also referred to as 'Soni') and her husband Suresh Kumar who have sought relief under Section 438 Cr.P.C. for grant of anticipatory bail and another bearing CRM-M-36197-2018 by Raj Kumar under Section 439 Cr.P.C. seeking regular bail, having been filed in one and the same very FIR No.0098 dated 02.06.2018 under Sections 304-B & 34 IPC pertaining to Police Station Moti Nagar, Ludhiana, are being taken up together for disposal.

The facts brought to the notice of this Court by the two sides are that the present FIR was got registered on the statement of Arvind

Kumar, brother of deceased Sushma. The allegations are to the effect that the marriage between the deceased and accused Ramesh Kumar took place about 6 years and 8 months ago where they had given sufficient dowry, out of which two girls who at the time of occurrence were aged around 3 years and 2 months respectively, were born. The complainant has alleged that the husband Ramesh Kumar, his father Raj Kumar, non-applicant accused Reshma mother, present petitioner Suresh Kumar brother and his wife Sonia Kumari @ Soni used to taunt the deceased for bringing less dowry and often harassed her on that score as well as for giving birth to two girls. In spite of the best efforts of the complainant family, the accused did not desist and on 01.06.2018 all the accused physically abused the deceased and thereafter accused Ramesh Kumar made a telephonic call to mother of the complainant to take away the deceased and which conduct of the accused was also instigated by one of the friends of husband. On the day of occurrence, i.e. 02.06.2018 a telephonic call was received from the deceased who expressed that she was under great tension on account of harassment by the accused, followed by another telephonic call by accused petitioner Sonia Kumari @ Soni informing the mother of the complainant that Sushma was not talking and something wrong has happened and subsequently, she was rushed to hospital and was declared as dead, leading to registration of the present case and arrest of petitioner Raj Kumar, father-in-law on 03.06.2018.

Ms. Narender Kaur, Advocate representing the petitioners has argued that there is no specific role attributed to any of the accused and the allegations are only generic in nature, submitting that petitioner Raj

Kumar is father-in-law, who is a senior citizen aged more than 70 years and that petitioners Sonia Kumari @ Soni and her husband Suresh Kumar had separate residence and kitchen from that of the co-accused and have been falsely implicated and that nothing is to be recovered from them.

On behalf of the State, Mr. Dhruv Dayal, Sr. Dy. Advocate General, Punjab on instructions from ASI Rachhpal Singh from Police Station Moti Nagar, Ludhiana assisted by Mr. Jitender Dadwal, Advocate appearing on behalf of the complainant have argued that the petitioners have been attributed allegations of harassment, cruelty and on account of their acts, within seven years of marriage the deceased has died in her matrimonial home under mysterious circumstances and in view of heinousness of the offence does not call for grant of bail.

Going through the submissions, a bare perusal of the statement of the complainant, which forms the FIR, is in itself illustrative as to the role assigned to the accused Sonia Kumari @ Soni and Suresh Kumar petitioners, whereby it is alleged that they have taunted the deceased for bringing less dowry and had harassed her as well for giving birth to two girls and the deceased was physically beaten up. The deceased herself has telephonically informed her mother Maya Devi of her sad plight.

Keeping in view that the deceased has died under suspicious circumstances in her matrimonial home within seven years of her marriage and the investigations are still underway and if allowed bail, the petitioners Sonia Kumari @ Soni and her husband Suresh Kumar would certainly influence the witnesses, besides the fact that provisions of Section 438 Cr.P.C. are to be sparingly used. Thus no case for grant of

anticipatory bail to them is made out and their bail application as such stands dismissed.

To the very specific query of the Court, Mr. Dhruv Dayal, Sr. Deputy Advocate General, Punjab has submitted that certainly as per the allegations, there is no specific role attributed to accused petitioner Raj Kumar who happens to be father-in-law of the deceased and is aged above 70 years. He is behind bars since a long time. The culpability, if any, shall be determined at the trial. In view of the age and there being no specific role attributed to him, certainly is an extenuating circumstance for sympathetic consideration of his bail. The trial is not likely to be concluded in the near future and thus, this Court is of the view that no useful purpose will be served by keeping the petitioner Raj Kumar behind bars in the present case. In view thereof, his prayer is allowed and the petitioner Raj Kumar is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Ludhiana.

Both the petitions stand disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

October 26, 2018

rps

Whether speaking/reasoned Yes/No

Whether reportable Yes/No