

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 32863 of 2018 (O&M)
Date of decision : 18.9.2018

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Akaash @ Kamal Mukhija

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Pardeep Virk, Advocate
for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General,
Haryana.

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H. S. Madaan, J.

This petition for regular bail has been filed by petitioner Akaash @ Kamal Mukhija, an accused in FIR No. 218, dated 27.2.2018, for an offence under Sections 306 IPC, registered at Police Station Chandni Bagh, Panipat, District Panipat.

Briefly stated, facts of the case, as per the prosecution version are that Babita aged about 35 years, daughter of complainant Kailash Rani was married with petitioner-accused Akaash @ Kamal Mukhija of Panipat on 9.8.2009. The couple was blessed with two

daughters, aged 6 years and 3 years. Petitioner accused Akaash @ Kamal Mukhija was involved in a love affair with a girl namely, Meenu for the last about one year. Babita objected to that relationship, as such her husband Akaash @ Kamal Mukhija gave several beatings to her and told her either to die or to go somewhere. On coming to know about such state of affairs, complainant Kailash Rani, mother of Babita went to matrimonial home of Babita at Panipat on 17.2.2018 and counselled the couple staying there for two days and returned home on 19.2.2018. On 20.2.2018, Babita made a telephonic call to her mother Kailash Rani that her husband was telling her either to die or to do anything and he was adamant to marry Meenu. Babita told her mother that she was tired of such activities and talks and was being compelled to commit suicide. Thereafter Babita disconnected the phone. On the same day in-laws family of Babita informed parents of Babita that Babita had consumed some poisonous substance and was admitted in IBM Hospital, as such family members of Babita went to the said hospital. However, Babita died there. Kailash Rani got her statement recorded with the police, wherein she stated that Akaash @ Kamal Mukhija had harassed and tortured Babita with regard to his intention to contract second marriage with Meenu, compelling Babita to commit suicide. On the basis of said statement, formal FIR was registered.

The accused was arrested in this case on 27.2.2018 and he is behind bars since then. He had moved an application for regular bail to the Court of Sessions, which was assigned to the Court of Additional Sessions Judge, Panipat, who vide order dated

5.7.2018, dismissed the same. As such, the petitioner has knocked at the door of this Court, craving for being released on regular bail.

Notice of the petition for regular bail was given to the State, which has put in appearance through State counsel, who is opposing the bail vehemently.

I have heard, learned counsel for the petitioner, learned State counsel, besides going through the record.

The accused is specifically named in the FIR. His wife Babita had consumed poison in the matrimonial home. It is specific case of the prosecution that Babita, a young married woman was compelled to take this extreme step being fed up with the attitude of the husband Akaash @ Kamal Mukhija, the present petitioner, who wanted to get rid of Babita and to marry another girl namely, Meenu.

Challan against the petitioner accused has been filed and charge framed against him. In that way, the trial is going on. The guilt of the accused shall be determined during the trial, which is likely to be concluded in near future.

As regards the contention of learned counsel for the petitioner that initially father of the deceased had made a statement to the police that nobody was at fault for happening of the death of Babita and the FIR has been lodged after 7 days of the incident and further the petitioner is to look after his two minor daughters, as such he be granted bail, such contentions cannot be accepted. The fact remains that Babita wife of the petitioner-accused had consumed poisonous substance, being in the matrimonial home. It is for the petitioner -accused to explain as to under what circumstances, she had

done so, since he has got special means of knowledge in that regard. He is not coming up with any plausible and satisfactory explanation. Father of the deceased making any statement to the police initially does not result in diluting guilt of the accused. Even otherwise it comes out that the petitioner had abetted suicide of his wife Babita. Delay of 7 days in lodging the FIR does not have much effect, since no motive for false implication is there and delay alone is not enough to adversely effect the case of the prosecution.

As regards liability of the petitioner to bring up his two minor daughters, of course those two girls can be looked after by any female member of the family. The petitioner can certainly not claim bail putting forward the plea that he is to maintain two minor daughters since other family members of the petitioner and his relatives can always take care of them.

The apprehension expressed by the State counsel that if granted bail, there is reasonable apprehension of the petitioner accused absconding and even trying to tamper with the prosecution evidence, cannot be brushed aside lightly.

Thus finding no merit in the petition the same stands dismissed.

18.9.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No