

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-18405-2019 (O&M)
Date of Decision : 11.06.2019

Atul Gupta

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. A.P.S.Deol, Senior Advocate
with Mr. Himmat Singh Deol, Advocate
for the petitioner.

Mrs. Anu Chatrath, Addl. A.G., Punjab.

RAJ SHEKHAR ATTRI, J. (Oral)

Abovenamed accused Atul Gupta has preferred the instant petition under Section 439 Cr.P.C. for grant of bail in case FIR No.155 dated 10.04.2018, registered under Sections 304-B, 120-B IPC, at Police Station Civil Lines, Amritsar, District Amritsar.

This case relates to the death of Smt. Nitya Gupta, who died on 13.02.2018, by consuming aluminium phosphate, within seven years of her marriage.

Briefly stated, it is a case of the prosecution that the marriage between the deceased and Atul Gupta (petitioner) was solemnized on 04.12.2011. They were blessed with a son namely Mahir, aged about five years.

Smt. Nitya Gupta had died in her matrimonial home. However,

intimation was given to her parents and also to the police. The inquest report was prepared.

Sh. Vinod Kumar, father of the deceased, had suffered a statement before the police wherein he has stated that he has only a doubt as to whether the death of Nitya Gupta had been caused due to torture or administration of poisonous substance.

Similarly, brother and cousin of the deceased namely Harshul and Manish Kumar Gupta son of Satish Kumar respectively suffered statements suspecting torture or administration of some poisonous substance to the deceased. The postmortem examination of deceased Nitya Gupta was conducted on 14.02.2018 but no FIR was registered. Rather, the matter was kept in limbo till 10.04.2018.

Infact, the FIR was registered on 10.04.2018 on the statement of Harshul Garg alleging that the petitioner and his other family members had been demanding dowry; they were harassing the deceased and in pursuance thereof she had consumed poison.

I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioner has submitted that infact on 13.02.2018, there was no story with the complainant or any of his family members against the accused rather complainant Harshul Garg in connivance of his other relatives started extracting money from the petitioner and his family members; that complainant Harshul Garg alongwith his associates had forged the signatures of the deceased on a cheque which was stolen from the house of the petitioner and presented the same with the bank on 14.02.2018 and they had withdrawn the huge

amounts from the bank account of deceased; that the complainant has extracted an amount of Rs.3,00,000/- by way of cheque from the father of the petitioner; that the complainant and his associates pressurized the wife of the petitioner (deceased) to open the lockers on 14.02.2018 and took away the gold jewellery of the deceased; that Harshul Garg in the company of his relative had received a cash amount of Rs.3,00,000/- on 22.03.2018 and he himself submitted receipt Annexure P-5; that Vinod Kumar, father of the deceased, alongwith his relative namely Sh.R.K.Garg had got procured a transfer deed (Annexure P-6) in favour of Mahir, minor son of the deceased regarding transferring half share in Kothi No.110, Anad Avenue, Amritsar; and also got executed agreement (Annexure 6A); that when one of the co-accused came to know that members of the parental family of the deceased had extracted huge amount and stolen valuable articles from the matrimonial house of the deceased, they submitted an application in July, 2018 and another application in December, 2018 on the basis of which FIR No.21 dated 20.01.2019 has been registered against Harshul Garg, Kunal Bansal, Vineet Goyal for the offences under Sections 384 and 388 IPC.

It has been further argued that much after submitting of the application before the police; Harshul Garg in connivance with his other relatives had submitted application to the police on 09.04.2018 on the basis of which FIR (Annexure P-1) was registered on 10.04.2018.

It has been further argued that visra of the deceased had been exchanged with another dead body and infact deceased had died due to natural death and this is why no FIR was lodged till 10.04.2018.

On the other hand, learned counsel for the complainant has

vehemently contended that on 13.02.2018 actual cause of death was not known, therefore, FIR could not be lodged and it was lodged only after the receipt of the report of the forensic science laboratory. He has submitted that now trial is in progress and the material witnesses have been examined.

I have given my thoughtful consideration to the rival contentions.

The petitioner is the husband of the deceased Smt. Nitya Gupta, who had died on 13.02.2018. The cause of death has been declared as poison which is led to respiratory failure and it was sufficient to cause death in the ordinary course of nature. However, there was no external injury on her body.

A bare perusal of the FIR transpires that the allegations have been levelled against the petitioner with regard to entrustment of *istridhan* articles, with regard to demand of dowry and with regard to harassment on account of dowry. These facts were within the personal knowledge of the complainant. No reason for keeping the matter in abeyance till 10.04.2018, has been assigned. It has also been brought to the notice of this court that on the application dated 26.07.2018, submitted by Manish Gupta (co-accused), an FIR No.21 dated 20.01.2019 was registered against Harshul Garg, Kunal Bansal and Vineet Goyal for the offences under Sections 384 and 388 IPC. Numerous documents have been placed on record to establish that the complainant party had received huge amounts and secured a transfer document before registration of the FIR. Complainant Harshul Garg received Rs.3,00,000/- in cash vide receipt dated (Annexure P-5) on 22.03.2018 from the petitioner; Annexure P-6 is the transfer deed vide which present petitioner Parveen Gupta had agreed to transfer half of his

share in Kothi No.110, Anand Avenue, Amritsar in favour of Mahir, minor son of the deceased. This document was also witnessed by Vinod Kumar, father of the deceased and one R.K Garg. There was also an agreement (Annexure 6/A) dated 14.02.2018 vide which Parveen Gupta, father of the petitioner, agreed that an amount of Rs.20,00,000/- shall be given by way of fixed deposit in the name of Mahir, minor son of the deceased, in the bank to secure his future and that would not be encashed till the minor attains the age of majority. All the documents transpires that complainant party indulged in securing money and the share of aforesaid kothi before getting registered the FIR.

Apart from it, co-accused Parveen Gupta and Manish Gupta, Deepali & Meeta have already been granted bail by this Court vide order dated 10.04.2019, passed by this Court in CRM-M-27467-2018 and CRM-M-20753-2018 respectively.

The trial of the case will take long time. No useful purpose will be served by keeping the petitioner in custody any further.

Keeping in view the totality of the circumstances and without expressing any opinion on merits of the case and also on the ground of parity, the present petition stands allowed. Petitioner Atul Gupta is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) *The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.*
- (b) *In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel*

his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.

(c) He shall not leave the country without the prior permission of the Court.

Nothing express hereinabove shall affect the merits of the case.

11.06.2019
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(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No