

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

CRM-M No.37370 of 2019

Date of decision: 13th September, 2019

Jaswinder Kaur

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Preetinder S. Ahluwalia, Advocate for the petitioner.

Mr. Harbir Sandhu, Assistant Advocate General, Punjab
for the respondent/State.

Mr. Deepak S. Saini, Advocate for the complainant.

FATEH DEEP SINGH, J.

The petitioner accused Jaswinder Kaur has invoked jurisdiction of this Court under Section 438 Cr.P.C. in case bearing FIR No.151 dated 13.08.2019 under Section 306 IPC pertaining to Police Station Sadar Patiala on the apprehension of her arrest.

A case was got registered on the statement of Bhupinder Singh brother of deceased Kamaljit Kaur, wife of accused Ravinder Singh. In his allegations, the complainant alleges that the marriage of the deceased and accused Ravinder Singh was solemnized in the month of February 2010 and out of which wedlock a son then aged around eight years was born to the couple. The complainant has stated that the accused husband Ravinder Singh, his mother Gurmeet Kaur, chacha (paternal uncle) Balkar Singh and present petitioner Jaswinder Kaur wife of

accused Balkar Singh were living together and had been harassing the deceased. It is alleged that the birthday of son of the deceased Sukhmandeep Singh was to be celebrated on 27.08.2019 for which the family had been demanding money and which was brought to the notice of her parents by the deceased and on account of harassment and cruelty the deceased died on 13.08.2019 by hanging herself.

Learned counsel for the petitioner Mr. Preetinder Singh Ahluwalia, Advocate inter alia contends that it is after more than nine years of marriage, the allegations have come about and that the alleged birthday was on 27.08.2019 whereas the occurrence had taken place on 12.08.2019 and there is no specific allegation against the petitioner for having abetted commission of the suicide by the deceased, regarding which neither there is any dying declaration nor suicide note, and has even sought to debunk that the beneficial provisions of Section 113-A of the Evidence Act as they do not stand attracted. It is argued that the entire family has been roped in when the petitioner and her husband were residing separate from the other co-accused and were not likely to be benefited out of the same.

Learned State counsel Mr. Harbir Sandhu, Assistant Advocate General, Punjab on instructions from ASI Manjeet Singh assisted by learned counsel representing the complainant Mr. Deepak Singh Saini, Advocate has sought to oppose the bail vehemently arguing that custodial interrogation of the petitioner is essential and that actually

offence under Section 302 IPC stands attracted and which disentitles the petitioner to any relief.

In the light of what has been argued before this Court, the husband, his mother and the husband of the present petitioner are in custody. The petitioner is aged lady, who happens to be wife of one of the brothers of father of the husband and thus, was too remotely to be benefited out of such demands. More so, there apparently is no element of abetment to suicide by the petitioner as there is neither any suicide note nor dying declaration from the deceased has been recorded. To the specific query of the Court, the learned State counsel fairly concedes that the ligature mark on the neck is suggestive of suicidal hanging. In the light of the allegations after nine years of the marriage, the allegation of dowry death does not crystallize and therefore, no benefit of the provisions of Section 113-B of the Evidence Act can be taken as has been sought to be forcefully submitted before this Court. It is nowhere illustrative in the arguments of the State side of any specific role of the petitioner as the insinuations so levelled are general in nature and therefore, a debatable issue arises over the culpability of the petitioner who is an aged lady. More so, a single injury as is reflected from the post-mortem report apparently rules out the averment that is sought to be made by the learned counsel for the complainant that it is a murder by the accused. In view thereof, this Court is of the opinion that mere joining the investigations by the petitioner would suffice the purpose.

Accordingly the petitioner is directed to join the investigations within ten days from today and on her doing so, she shall be released on bail to the satisfaction of the investigating officer till submission of report under Section 173 Cr.P.C. (challan). She shall continue to join investigation and shall furnish an undertaking that she shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off in those terms.

(FATEH DEEP SINGH)
JUDGE

September 13, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No