

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

CRM-M-45562 of 2019.

Decided on:- November 01, 2019.

Anil.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Narender Pal Bhardwaj, Advocate
for the petitioner.

Mr. Vikramjeet Singh, Addl. A.G., Haryana.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.31 dated 26.02.2019 under Section 304-B/34 IPC registered at Police Station Pillu Khera, District Jind, though subsequently, the trial Court framed charge under Section 304-B/34 IPC and alternate charge under Section 302/34 IPC against the petitioner.

The aforesaid FIR was registered on the basis of statement made by complainant Rajender, who is brother of deceased Poonam.

As per the FIR, the marriage of petitioner was solemnised with Poonam (since deceased) on 19.01.2013 and out of this wedlock, there are two children, a 5 years old son and a 3 years old daughter. The in-laws of Poonam used to harass her for demand of dowry. The petitioner had illicit relations with his aunt Rajwanti @ Bhuria. Since Poonam had raised voice

against these relations, Bhuria instigated the petitioner for beating his wife Poonam. One week before her death, Poonam had made a telephonic call to the complainant that her mother-in-law (Santosh), husband (petitioner herein), brother-in-law (Parveen) and Bhuria (aunt of the petitioner) were beating her. The complainant convinced the in-laws of the deceased telephonically and they admitted their guilt. However, on 26.02.2019 at about 03.00 P.M., Balwan who is father-in-law of deceased Poonam, had called the complainant on phone informing that Poonam had died by hanging.

Learned counsel for the petitioner has contended that Poonam had died after about 6 years of marriage. There is no allegation of demand of dowry. In fact, as per the FIR, Poonam had died because the petitioner was having some illicit relations with his aunt Bhuria.

He has submitted that as per the post-mortem report dated 27.02.2019, Poonam had died because of hanging and as per the FSL Crime Scene Report dated 27.02.2019, there was no struggle mark noticed at the spot and there was no injury or struggle mark noticed on the body of the deceased. In this manner, Poonam had died because of hanging.

He has further submitted that the petitioner is in custody since 06.03.2019 and conclusion of trial will take long time. The petitioner is required to take care of his two small children i.e. a 5 years old son and a 3 years old daughter. Moreover, co-accused Rajwanti alias Bhuria has already been granted bail by this Court vide order dated 11.09.2019 passed in ***CRM-M-33534 of 2019*** titled as ***Rajwanti alias Bhuria Versus State of Haryana.***

Learned State counsel, on instructions from ASI Neer Kumar, has argued that Poonam had died within 7 years of marriage, and therefore, the petitioner has been charged for the offence under Section 304-B and in the alternative, for the offence under Section 302 IPC. A week before her death, Poonam had made a telephonic call to the complainant informing him that she was given beating by the accused including the petitioner. However, he states that as against total 22 witnesses cited by the prosecution, only 1 witness has been examined by the trial Court.

I have heard learned counsel for the parties.

As per the post-mortem report, Poonam had died because of hanging and as per the FSL, Crime Scene Report, neither any struggle mark was noticed at the spot nor any struggle or injury mark was noticed on the body of deceased. The petitioner is in custody since 06.03.2019 and he has to look after two small children i.e. a son (5 years old) and a daughter (3 years old). The co-accused, namely, Rajwanti @ Bhuria has already been admitted on bail by this Court on 11.09.2019 and the conclusion of trial is likely to take long time as only 1 prosecution witness has been examined before the trial Court out of the total 22 witnesses. Thus, when the culpability of the petitioner is yet to be decided during the trial, this Court finds that he deserves to be admitted on bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

November 01, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No