

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

CRM-M-379 of 2020.

Decided on:- June 05, 2020.

Nasiyat.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Manish Bansal, D.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

The petitioner has filed present petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.193 dated 08.09.2018 under Sections 498-A, 304-B, 406, 328 and 201 read with Section 34 IPC registered at Police Station Bahin, District Palwal.

Learned counsel for the petitioner submits that the marriage of petitioner was solemnised with Shabnam (since deceased) on 22.06.2012 and out of this wedlock, there are two daughters, who are living with the mother of the petitioner. Shabnam had died on 08.09.2018 as she consumed poison i.e. sulphas tablets. The allegation against the petitioner is that he had harassed the deceased for more dowry and demanded a Swift car and had given beatings to her for not fulfilling his demand. On 07.09.2018, the deceased had telephonically informed her cousin brother Imran that the

petitioner along with other are harassing her for dowry and are threatening to kill her. It is thereafter, on 08.09.2018, they received an information regarding death of Shabnam.

He has further argued that the petitioner had taken the deceased to the hospital to show his conduct that he was not instrumental in harassing her. Apart from the fact that the petitioner is in custody since 23.12.2018, as against the 20 witnesses cited by the prosecution, only 6 witnesses have been examined so far. Moreover, after dismissal of the application under Section 319 Cr.PC moved by the prosecution on 07.01.2020, the case has been adjourned by the trial Court to different dates i.e. 10.02.2020, 06.03.2020 and 31.03.2020 for prosecution evidence. Vide order dated 10.02.2020 passed by the trial Court, bailable warrant were issued against PWs Imran and Hasina, who are cousin brother and mother of the deceased, but they did not turn up for their examination in the case despite service. Accordingly, vide order dated 06.03.2020, warrants of arrest were issued against these two witnesses, but even the warrants of arrest remained unexecuted and thereafter, fresh warrants of arrest were issued against these witnesses for 31.03.2020. It shows that these witnesses are intentionally not coming forward to depose in the case and the petitioner is suffering for their laxity.

Learned State counsel has argued that Shabnam wife of the petitioner had died within 7 years of marriage and immediately before her death, she had telephonically informed her cousin brother Imran that the petitioner along with others are harassing her for dowry.

I have heard learned counsel for the parties.

The petitioner is in custody since 23.12.2018. Despite various opportunities to the prosecution witnesses, they are not coming forward to depose in the case and for this reason, the trial Court has issued warrants of arrest of PWs Imran and Hasina, who are cousin brother and mother of the deceased. Moreover, the deceased had left behind two daughters, who are otherwise staying with the family of the petitioner. The conduct of the petitioner further warrants favourable consideration as it is the petitioner, who had taken the deceased to the hospital, though ultimately, she had died. In this manner, culpability of the petitioner is yet to be established during the trial, which is not likely to be concluded in near future. Therefore, this Court finds that the petitioner 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/Duty Magistrate.

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.

June 05, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No