

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

CRM-M-6100 of 2019 (O&M)

Date of Decision: August 05, 2020

Balwinder Kumar

...Petitioner

Versus

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gaurav Chopra, Advocate,
for the petitioner.

Mr. P.S.Walia, AAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.88 dated 07.08.2018, under Sections 304-B read with Section 34 IPC, registered at Police Station, Tibba, District Ludhiana. The petitioner is in custody since his arrest on 07.01.2019.

The above FIR was registered at the instance of Gian Chand, wherein it was alleged that his daughter Rajwinder Kaur was married to Balwinder Kumar on 09.11.2014. On 06.08.2018, Satya Devi, mother of Rajwinder Kaur, received a call from Jagat Ram, who informed that the condition of her daughter was serious. Immediately upon receipt of said information, the complainant, his wife and other respectable persons reached the matrimonial home of Rajwinder Kaur, where they saw the dead body of their daughter lying in a tempo on a cot. It was alleged that the tongue of Rajwinder Kaur was protruding out and there were marks of

injuries/strangulation on the neck of the deceased. According to complainant, Rajwinder Kaur had been murdered by her in-laws family, i.e., her father-in-law Jagat Ram, mother-in-law Amarjit Kaur, grandmother-in-law Piaro, son-in-law Balwinder kumar and sister-in-law Baby. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioner contends that the FIR was registered by the father of the victim, namely, Gian Chand on the next day and that too after consultation with his relatives. He has invited the attention of the Court to the testimony of Gian Chand, who deposed as PW-1 before the trial Court and admitted the fact of consultation. He submits that similar is the stand of his wife, namely, Satya Rani (PW-2). Learned counsel has further contended that the FIR does not contain the allegations of demand of dowry and, therefore, according to him, it would be seriously debatable if the offence under Section 304-B IPC would be made out against the petitioner. According to him, the victim was already undergoing the treatment for her neuro problem and he has pointed out to the said admission made by the father of the victim in his testimony before the Court. He has argued that the prosecution has already examined the material witnesses and, therefore, further custody of the petitioner may not be necessary. Lastly he submits that the other co-accused of the petitioner are already on bail and prays for grant of regular bail to the petitioner as well.

On the other hand, learned State counsel, assisted by ASI Gurdev Singh, has opposed the prayer on the ground that the offence is serious and the petitioner is husband of victim Rajwinder Kaur, and cannot claim parity with the co-accused. However, it is not disputed that the other co-accused were granted the concession of anticipatory bail. He fairly states

that ten prosecution witnesses still remain to be examined before the trial Court. He further submits that the complainant, his wife along with the Investigating Officer and the doctor have already testified before the trial Court.

Considering the above background, custody of the petitioner and the fact that the material witnesses have already been examined by the prosecution, this Court does not find any reason to decline the prayer of the petitioner, particularly when the trial is likely to consume considerable time to conclude as the country continues to be in the throes of global pandemic, namely, COVID-19 and the State Government and District Administration have also imposed various restrictions to curb its spread. The petitioner after his arrest on 07.01.2019, is presently confined in judicial custody, therefore, his further detention behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the CJM/trial Court, Ludhiana.

The petition is allowed.

August 05, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No