

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

CRM-M-14949 of 2020 (O&M)

Decided on:- July 22, 2020.

Sachin.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Sunny Bhardwaj, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.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.

CRM-16887-2020

Exemption application is allowed as prayed for.

CRM-16890-2020

The copy of statement (Annexure P-6) of Santosh Devi recorded before the trial Court as PW7 is taken on record subject to all just exceptions.

CRM stands disposed of.

CRM-M-14949-2020

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.330 dated 06.07.2018 under

Sections 304-B and 315 read with Section 34 IPC registered at Police Station Beri, District Jhajjar.

The aforesaid FIR was registered on the complaint of Santosh Devi, who is mother of deceased Bhateri. As per the FIR, the marriage of Bhateri was solemnised with the petitioner on 30.11.2017. On 30.06.2018, Kalu, who is brother-in-law of deceased Bhateri had come to village Dhandlan. Though the deceased was not inclined to go to her in-laws' house by saying that if she would go there, they would demand for the motorcycle, however, on the assurance given by Kalu, the deceased was sent along with him to her in-laws' house. On 04.07.2018, the complainant received an information that the child in the womb of Bhateri (since deceased) had died and for this reason, poison spread in her whole body. Later on, the complainant came to know that her daughter had been poisoned and due to poison, child in womb had died. Accordingly, Bala wife of Surender, Surender, Sachin (present petitioner) and Kalu son of Surender were named as accused.

Learned counsel for the petitioner has argued that there was no demand of dowry. PW5 and PW7, who were crucial witnesses in the case have been examined in the case. On 30.06.2018, deceased Bhateri had accompanied Kalu, who is brother of the petitioner and it was on 04.07.2018, she had died. It is the petitioner, who had taken the deceased to PGIMS, Rohtak promptly and the family members of the deceased-wife were duly informed, who were present in the hospital. They attended the cremation as well. There was no demand of dowry in any manner. The petitioner is in custody since 23.07.2018.

He has further argued that PW5 and PW7, who are brother and mother of the deceased respectively, though were cross-examined, but some material questions regarding demand of dowry and the manner of death have been left and could not be put to them inadvertently and for this reason, the petitioner had filed an application under Section 311 Cr.PC, but the same was dismissed by the trial Court. The said order of the trial Court has been challenged by the petitioner before this Court by way of *CRM-M-39683 of 2019* titled as *Sachin Versus State of Haryana*. Vide order dated 17.09.2019 passed by this Court in the said petition, the trial Court was directed to adjourn the case beyond the date fixed by this Court. In this manner, trial in the case has been stayed.

He has further submitted that there is a tendency to implicate the whole family and accordingly, the whole family of petitioner was arrayed as accused, though during investigation, the father, mother and brother of the petitioner were found innocent.

Learned State counsel has submitted that deceased Bhateri had died as she consumed poisonous substance i.e. aluminium phosphide. The marriage of deceased Bhateri was solemnised with the petitioner on 30.11.2017 and she died on 04.07.2018. The copy of FSL report filed by learned State counsel, is taken on record.

I have heard learned counsel for the parties.

No doubt, the marriage between the petitioner and deceased Bhateri was solemnised on 30.11.2017. The deceased had died because of some poisonous substance, though she was pregnant. The petitioner was arrested on 23.07.2018 and accordingly, he is in custody for the last about two

years. The brother of deceased and her uncle had attended the deceased in the hospital, but the allegation that the petitioner had cremated the deceased secretly is debatable one. Once it has come to the notice of the complainant that the deceased had died on 04.07.2018 and they had attended her in the hospital, it is difficult to believe that they had not attended the cremation.

Be that as it may, considering the fact that the petitioner is in custody since 23.07.2018 and the trial is not likely to be concluded in near future, 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.

July 22, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No