

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

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CRM-M No.18233 of 2020

DATE OF DECISION : 13th JULY, 2020

Smt. Kamla Devi

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present: Mr. Sartej Singh Narula, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Section 438 Cr.P.C for grant of anticipatory/pre-arrest bail in case FIR No.145 dated 17.06.2020 registered under Sections 120-B & 304-B IPC, at Police Station Sarai Khawaja, District Faridabad.

The allegations against the petitioner, in brief, are that the daughter of the complainant had married to the son of the petitioner. The marriage had taken place on 18.01.2019, whereas the daughter of the complainant committed suicide on 17.06.2020 due to alleged harassment let loose upon her by the husband and the in-laws. The allegations are that the husband and his family members used to demand a Creta car from the deceased and she was thrown out of the matrimonial house on account of non-fulfillment of this demand. Thereafter, she had gone to her parents' house. It is there that she committed suicide.

It is contended by the counsel for the petitioner that there are no specific allegations against the petitioner. So far as the dowry is concerned, the only allegation is qua demand of a Creta car. This allegation is also absurd because the complainant had already given a Ford Eco-Sport car at the time of marriage. Therefore, the Creta car, being equivalent to Ford Eco-Sport only, there was no reason or occasion for the husband or the family to demand Creta car from the deceased. Still further it is submitted that there are two other cars with the family. Therefore, there is no question of family demanding any car from the deceased. Still further submitted that the petitioner is a chronic patient taking continuous treatment; therefore, otherwise also she was not in a position to cause any harassment or to demand any dowry from the deceased.

Notice of motion.

Mr. Anmol Malik, DAG, Haryana, accepts notice on behalf of the State and Mr. Robin Dutt, Advocate accepts notice on behalf of the complainant.

Learned State counsel, on instructions from SI Sanjay Prashad, has submitted that the marriage had taken place only in January, 2019 and the death has happened on 17.06.2020, i.e., within one and half year of the marriage only. Still further it is submitted that although the petitioner has submitted that the deceased had come to her parental house three months back, however, the petitioner or her son did not make any effort to take back the deceased. This also shows their intention. The police needs to thoroughly investigate the offence. Hence, the custodial interrogation of all the persons mentioned in the FIR is duly required.

Hence, the petitioner does not deserve any concession of anticipatory bail.

Learned counsel for the complainant has also submitted that the daughter of the complainant was unduly harassed by the petitioner and her family members. It is further submitted that although he has not included this fact in the FIR, however, he had paid money to the husband of the deceased and his family members twice on their demand. However, despite the payments of money, the petitioner and her family members did not desist from harassment of his daughter. Being under undue stress on these counts, the deceased lost her life. It is further submitted that the deceased had left a suicide note, which has been discovered later on. In the said suicide note as well, she has levelled specific allegations against the husband and other family members, including the present petitioner. Though, the death has happened in the house of the complainant, however, it has happened because of the long harassment let loose by the petitioner and her family members upon the deceased. Hence the petitioner does not deserve any concession of anticipatory bail.

No doubt, the accused as a citizen has a fundamental right to life and liberty. However, that right to life and liberty can very well be curtailed in accordance with the procedure established by law. As per the procedure prescribed for Criminal Administration of Justice, the normal procedure for curtailing the life and liberty of the accused, Cr.P.C. prescribes that the Investigating Officer can arrest an accused even without warrant and without assistance /interference of the Court. However, to ensure that a person is not unduly harassed, at least in those

cases, where the circumstances are leading, predominately, towards ex-facie innocence of the accused, the Courts have been given special and extra-ordinary power under Section 438 Cr.P.C. This statutory power of granting pre-arrest bail is so extraordinary that it is not even available in all parts of the country; and it is not available even through-out the country qua some offences under some special statutes. Hence, right to get anticipatory bail is not any fundamental right. The provision of Section 438 Cr.P.C. provides only a remedy to an accused and leaves the extent of right to liberty to be decided by the Court.

Coming to the fact of the present case, undisputedly, the death of the deceased has happened within a period of less than two years from the date of marriage, nothing has been pointed out by the counsel for the petitioner, as to any specific reason, why the deceased would have taken resort to this last step. On the other hand, there are specific allegations qua the demand of dowry and harassment, levelled in the FIR. The deceased has left behind a suicide note in which she has given some details of the behaviour of the petitioner and her family members towards her. In that view of the matter, this court does not find any ex-facie innocence on the part of the petitioner, vis-à-vis the allegations levelled against her. Otherwise also the case is at the initial stage. A young girl has lost her life. She could not have taken this extreme step without any reason. Hence, the intricacy of the dimensions of the crime are to be unearthed by the police during the investigation. For this purpose, the police may require the custodial interrogation of the petitioner. Therefore, if the petitioner is protected at this stage, that would hamper the free and fair investigation on the part of the police.

In view of the above, but without commenting anything more on merits of the case, the present petition is dismissed.

13th JULY, 2020
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>