

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

225

CRM-M-23444-2020
Date of Decision: 05.11.2020

Joginder Singh ... Petitioner

Versus

State of Haryana ... Respondent

CORAM : Hon'ble Mr. Justice Arun Kumar Tyagi

Present : Mr. Hemant Bassi, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J.(Oral)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, “the Cr.P.C.”) for grant of regular bail in case FIR No. 0497 Dated 18.10.2019 registered under Section 304-B read with Section 34 of the Indian Penal Code, 1860 (for short, “the IPC”) at Police Station City Tohana, District Fatehabad.

Briefly stated the above said FIR was registered on statement of Vikas who alleged that the marriage of his sister Anuradha @ Anu was solemnized with accused Joginder Singh (the petitioner) on 19.11.2017 in accordance with Hindu rites and ceremonies in village Dayad. Accused Joginder Singh, his brother Manoj Kumar, his mother Bimla, Sharda, Gulab Singh, Vinod Kumar and Vijender Singh (brother-in-law of accused Joginder Singh) were not happy with the dowry given at the time

of marriage and all of them taunted and maltreated the deceased for not meeting their dowry demands. Panchayats were held in this regard 2-3 times and dowry demands were also made in the Panchayats. About one month back his sister Anuradha @ Anu was sent to her parental village Dayad for bringing dowry amount with the threat of divorce. Accused Joginder Singh also had illicit relations with some other girl. About 25 days back they left their sister at her in-laws house after giving Rs.50,000/-. On 17.10.2019 on receipt of information about death of his sister Anuradha @ Anu he reached the hospital and on enquiries came to know that his sister was tortured and harassed on account of dowry. The police investigated the case and charge-sheeted the petitioner.

The petitioner being in custody since the date of his arrest has filed the present petition for grant of regular bail.

The petition has been opposed by the State in terms of reply filed by way of affidavit of Birem Singh, HPS, Deputy Superintendent of Police, Tohana.

I have heard learned counsel for the petitioner and learned State counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The petitioner is serving in Indian Army as Lans Nayak in Jat Regiment and is presently posted at Ranchi. It appears that the deceased got frustrated because of posting of the petitioner at a far away place and carried some wrong impression about alleged involvement of the petitioner with someone else. The petitioner died due to consumption of poisonous substance.

There are no specific allegations as to the petitioner having subjected the

deceased to any cruelty or harassment or to have made any dowry demands shortly before the death of the deceased. The FIR was registered against all the family members of the petitioner but on investigation they have been found to be innocent and have been exonerated by the Police. The petitioner who was posted at far away place could not be maker or beneficiary of any dowry demand and could not subject the deceased to maltreatment shortly before her death. The petitioner has not committed any offence much less the offence under Section 304-B of the IPC. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted bail.

On the other hand, learned State counsel has submitted that the petitioner maltreated the deceased and subjected her to cruelty for not meeting the dowry demands. Since the death occurred within seven years of marriage the Court has to draw the presumption as to commission of the offence punishable under Section 304-B of the IPC against the petitioner. In view of the gravity of accusation, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In the present case, the petitioner is employed in Army and was posted at far away place at the time when the occurrence took place. Allegations regarding making of dowry demands and maltreatment of the deceased for not meeting dowry demands were made against other family members of the petitioner who were on investigation by the Police found to be innocent and were exonerated. Prima facie debatable questions as to whether any dowry demand was made by the petitioner and whether the deceased was subjected to any cruelty by the petitioner shortly before her

death are involved. The adjudication of these questions on the basis of evidence to be produced during the trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19. There is no reasonable ground for the apprehension of the petitioner absconding or tempering with evidence or intimidating the prosecution witnesses. In these facts and circumstances of the case, but without meaning to comment on merits as the same may prejudice either of the parties, I am inclined to extend the concession of regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/ Duty Magistrate concerned.

05.11.2020

Vishal

(ARUN KUMAR TYAGI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No