

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-24543 of 2020
Date of decision:25.09.2020

Raman Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ajit Sigh Lamba, Advocate
for the petitioner.

Mr. Rajiv Sidhu, Deputy Advocate General, Haryana
for the respondent-State.

Mr. N.S.Shekhawat, Advocate
for the complainant.

SUVIR SEHGAL J.

The hearing of this petition has taken place through video conferencing on account of outbreak of coronavirus (Covid-19) pandemic.

This petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C), for grant of regular bail to the petitioner in the case arising out of FIR No.127 dated 03.07.2019 registered under Sections 304-B and 34 of Indian Penal Code, 1860 (wherein Section 34 IPC was deleted in report under Section 173 Cr.P.C. and Section 406 IPC was added) at Police Station Bhattu Kalan, District Fatehabad.

FIR in question was registered on the complaint of Birbal, son of Phoosa Ram, father of the deceased Shakuntla, to the effect that his daughter, aged 31 years, was married to the petitioner about 3½ years ago. The in-laws of a daughter were not happy with the dowry and she had to constantly face insults and harassment at their hands. Demand for more

dowry was raised immediately after marriage and about two years later, when his daughter was blessed with a son, the in-laws demanded Rs.5.00 lakhs on *chhuchak*. The complainant had given gifts like jewellery, clothes and Rs.2.00 lakhs in cash, but that did not satisfy the in-laws. About one year ago, the deceased was beaten by her mother-in-law and husband (present petitioner) and thrown out of the house. Two days later, her in-laws came, admitted their mistake and took her back with the promise that they will not demand dowry and that they will not harass her. On 03.07.2019, the complainant was informed that his daughter had expired. When he reached the matrimonial home of his daughter with some relatives, he saw the body of his daughter on a cot in the yard with the friction mark on her neck. He alleged that his daughter had been murdered by the petitioner and her mother-in-law by strangulation with a *chunni*. During investigation, the petitioner was arrested on 09.07.2019. The mother-in-law of the deceased was found to be innocent. Police report dated 31.08.2019 (Annexure P-2) was submitted under Section 173 Cr.P.C. wherein Section 34 IPC was deleted and Section 406 IPC was added.

Counsel for the petitioner has argued that a false case has been registered against the petitioner under Section 304-B IPC. By referring to the definition of dowry death, counsel submits that the deceased was never subjected to any cruelty or harassment by her husband soon before her death, as a result of which, the provisions of Section 304-B, IPC, are not attracted. His argument is that at best, it was a case of suicide and the FIR under Section 306 IPC, should have been registered. He has made a reference to the Post Mortem Examination Report (PMR) (Annexure P-3) to submit that nature of description of external general appearance of the body

points towards a case of suicide. He further submits that the investigating agency has found the mother of the petitioner to be innocent and has not filed the challan against her. Immediately, after framing of the charges, the complainant got himself partly examined as PW1 on 04.03.2020, when an application under Section 319 Cr.P.C. was moved to summon the mother of the petitioner as an additional accused. The application was fixed for 08.04.2020 and could not be adjudicated since the Courts are not functioning normally due to outbreak of novel coronavirus. He submits that the petitioner is languishing in jail since the last 01 year and 02 months and he deserves to be enlarged on bail.

Per contra, State counsel assisted by the counsel for the complainant have opposed the petition on the ground that there are specific allegations against the petitioner. Not only, has he been named but even incidents of demand of dowry have been described in the FIR. Reference has been made to the PMR, Annexure P-2, to submit that it is apparent that the unnatural death of the deceased had taken place within seven years of her marriage and the presumption under Section 304-B IPC, has to be drawn against the petitioner. Reference has been made to the disclosure statement of the petitioner as recorded in the final report, Annexure P-2. State counsel upon instructions from ASI Sushil Kumar submits that the challan was filed on 07.09.2019 and charge against the petitioner was framed on 08.01.2020. The complainant has been partly examined and his examination-in-chief, is yet to be concluded.

I have considered the rival submissions of the parties.

The daughter of the complainant was married to the petitioner in the year 2016 and she met an unfortunate end on 03.07.2019. In the Post

Mortem Examination Report dated 03.07.2019, (Annexure P-2), the External General Appearance of the body of the deceased has been recorded as under:-

“An abraded ligature mark of 10 inch x 1 inch present obliquely in upper side of neck which is extending from right side angle of mandible to circumferentially extended towards left side of neck. A nape of neck up to right side posteriorly to mastoid region sparing space present below right ear extending from anterior aspect of right mastoid region to posterior aspect, right angle of mandible. Ligature mark dark red in colour parchmented, grooved measuring extending 3 cm below right angle mandible to 4 cm below chin to 4.5 cm below left mastoid region. Impression of knod present on right side of neck. On dissection glistening white band and sub cutaneous hemorrhage present. The neck is treated anteriorly and there is apparent lengthening of neck”.

The counsel for the petitioner has emphatically argued that Section 304-B, IPC has not been attracted and this argument has been equally strongly rebutted by the respondents, however, this Court refrains itself from going into the same. Any comment or opinion by this Court on this aspect is likely to prejudice the trial Court. Suffice to say that allegations levelled in the First Information Report lodged by the father of the deceased and the observations of the doctor in the Post Mortem Report (Annexure P-2) show that the girl had died of unnatural causes within 3½ years of her marriage. There are categoric averments regarding demand of dowry from the complainant and ill-treatment of the deceased by her in-laws

in the complaint. As to whether the death was due to unnatural causes after she was subjected to harassment or cruelty by the in-laws or due to suicide, is a question which the trial Court will determine at an appropriate stage.

Though there is likely to be some delay in the trial due to the outbreak of the pandemic and the pendency of application under Section 319 Cr.P.C filed by the prosecutrix, but the petitioner cannot get any benefit of the same, particularly, because the examination-in-chief of the complainant is in the process of being recorded. Considering the gravity of the offence and the serious nature of the allegations against the petitioner, the benefit of concession of regular bail cannot be extended to him. The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

September 25, 2020
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes