

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

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**CRM-M-28200-2020
Date of Decision : 10.12.2020**

Sushil KumarPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Manoj Pundir, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana
for the respondent-State.

Mr. Bhupender Singh, Advocate
for the complainant.

ARUN KUMAR TYAGI, J. (Oral)

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

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.146 dated 02.05.2020 registered under Section 306 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC') in Police Station Yamuna Nagar Sadar, District Yamuna Nagar from which Section 34 of the IPC was deleted lateron.

The above-said FIR was registered on complaint of Ravi Kumar. In his complaint Ravi Kumar alleged that around 7-8 years ago marriage of his sister Rajni was solemnized with Sushil Kumar. Two children were born out of the wedlock. Sushil Kumar used to beat his sister under the influence of liquor and continuously tortured her from the beginning. Mother-in-law, brother-in-law and sister-in-law of his sister also harassed her. On 01.05.2020 his sister Rajni ended her life by consuming some poisonous substance.

The petitioner, who is in custody since 04.06.2020, has filed the present petition for grant of regular bail.

The petition has been opposed by learned State Counsel in

terms of reply filed by way of affidavit of Sh. Subhash Chand, HPS, Deputy Superintendent of Police, Yamuna Nagar in the Registry which is taken on record.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. The FIR was lodged with undue and unexplained delay of 1 day. Marriage between the petitioner and deceased was solemnized about 8 years back and presumption under Section 113-A of the Indian Evidence Act, 1872 does not arise. There is no allegation regarding cruelty to the deceased. The petitioner is not alleged to have abetted or instigated commission of suicide by the deceased. There is no suicide note to show that the petitioner compelled his wife to commit suicide. The allegations are vague and general against all the family members of the petitioner and no specific allegation has been made against the petitioner. No offence under Section 306 of the IPC is made out against the petitioner. The trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel and learned Counsel for the complainant have argued that the petitioner abetted commission of suicide by his wife by treating her with cruelty as he used to beat her under the influence of liquor. In view of the nature of accusation and gravity of the offence committed by the petitioner, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, specific allegations that the petitioner used to beat the deceased under the influence of liquor and treated her with cruelty which compelled her to commit suicide and the fact that the trial can be expedited on easing out of the restrictions imposed to prevent spread of infection of Covid-19, I

am of the considered view that the petitioner does not deserve the concession of regular bail.

In view of the above, the present petition for grant of regular bail to the petitioner is dismissed.

However, in view of the observations made by Hon'ble Supreme Court in *Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256*, *State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390*, *Hussain and another Vs. Union of India 2017(2) RCR Criminal 312* and *Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861*, the trial Court is directed to dispose of the case expeditiously preferably within three months from the date of receipt of a copy of this order by conducting trial on day to day basis by allocating block of dates for the trial as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the prosecution/defence witnesses.

In case of non-appearance of the prosecution/defence witnesses, the trial Court shall take appropriate action against the concerned prosecution/defence witnesses absenting without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Cr.P.C. against them.

The observations made by this Court are strictly for the purpose of disposal of the present petition and nothing in this order shall be treated as expression of any opinion on merits of the case so as to bind or influence the trial Court in adjudication of question of guilt or innocence of the petitioner.

A copy of this order be sent to the trial Court concerned for requisite compliance.

10.12.2020
Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No