

CRM-M-2018-2021(O&M)

[1]

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

**Criminal Misc. No.M-2018 of 2021(O&M)
Date of Decision: June 03, 2021**

Deepak Bhatti

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Jasraj Singh, Advocate for the petitioner.

Mr.Rana Harjasdeep Singh, DAG, Punjab.

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HARINDER SINGH SIDHU, J.

The petitioner- Deepak Bhatti has filed this petition under Section 439 Cr.P.C for grant of bail in case FIR No.05 dated 15.01.2019 under Sections 302, 34 IPC, Police Station Bullowal, District Hoshiarpur, Punjab.

The FIR was registered on the statement of complainant Mintu, who is father of the deceased-Nisha. He stated that his daughter Nisha, aged about 25 years, was married to the petitioner - Deepak Bhatti son of Kewal Krishan (co-accused), resident of Allowal, District Hoshiarpur. She was residing in their house for the last 9 years. They had two children i.e. one daughter who is 8 years old and one son who is 5 years of age. It was further alleged that the petitioner had been harassing and beating his daughter since long. A day before the alleged incident, the daughter of the complainant had complained to him that her husband would kill her and asked the complainant to come soon to meet her. The complainant along

with his brother namely Rahul reached the house of the petitioner at Village Allowal at about 11.30 a.m. and found his daughter- Nisha screaming in a room on the first floor of the house. When they went to the said room they found that Deepak Bhatti (petitioner) was strangulating the neck of Nisha with the help of a sky blue cloth while co-accused Kewal Krishan (his father) was holding her legs with full force. His daughter was holding the hair of the head of the petitioner in an attempt to free himself. On seeing them the complainant and his brother raised hue and cry due to which both the accused ran down. After that, the complainant entered the room and found that the neck of Nisha was strangulated with sky blue color cloth due to which she died. It was further alleged that the petitioner and co-accused Kewal Krishan were responsible for causing death of his daughter Nisha.

Ld. Counsel for the petitioner has argued that the petitioner has been falsely implicated in this case on the basis of adduced evidence, which is materially discrepant and deficient. The occurrence allegedly took place at about 11.15 am on 15.01.2019. At the relevant time, the petitioner was not even present in village Allowal. In fact, he had gone to the Axis Bank in village Dalamwal near Bullowal. This fact could be garnered from the CCTV footage which had been ordered to be preserved vide order dated 13.03.2019 passed by the JMIC, Hoshiarpur. He further argued that even the presence of the complainant at village Allowal on the date and time of the alleged occurrence is doubtful, as his call detail records would indicate that at the relevant time, the complainant was at Ludhiana, whereas, the occurrence had taken place at village Allowal, District Hoshiarpur.

The petitioner is in custody since 15.01.2019. The trial of the case has not progressed as till now not even a single witness has been

examined. The complainant himself is responsible for the delay in the trial as he did not appear on four occasions and non-bailable warrants were issued against him and his brother to secure their presence.

Ld. Counsel for the State has objected to the prayer for bail by arguing that the petitioner has murdered his wife by strangulating her. As per the postmortem report, the cause of death is *'asphyxia due to respiratory insufficiency due to strangulation which is sufficient to cause death in ordinary course of nature'*. The cloth of sky blue colour was found tied around the neck of the deceased. The hair which were found in the grip of the deceased have been taken into possession and sent to the Forensic Science Laboratory. The report thereof has not yet been received.

The contentions of the Ld. Counsel for the petitioner about the petitioner being not at his house on the date and time of the alleged occurrence will be gone into during trial. Similarly his contention that on the date and time of the alleged occurrence the complainant was at Ludhiana will also have to be gone into at the time of trial.

On the material on record and in the absence of any explanation on the part of the accused as to how his wife died in his house, if not in the manner as alleged by the prosecution, no ground is made out for grant of bail to the petitioner at this stage.

Petition dismissed.

June 03, 2021

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No