

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-15406 of 2021 (O&M)
Date of decision:23.11.2021

Amit

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.R.N.Lohan, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

CRM No.32276 of 2021

Application is allowed.

Examination-in-chief of complainant, Ashok-PW3, is taken on
record as Annexure P-3.

CRM-M-15406 of 2021

Instant petition has been filed under Section 439 Cr.P.C.
seeking grant of regular bail to the petitioner in case FIR No.0185 dated
20.08.2020 registered for offence under Section 306/34 of Indian Penal
Code, 1860 (FIR was registered under Section 302/34, IPC) at Police
Station Julana, District Jind.

As per the case of the prosecution, FIR came to be registered on
the statement of Ashok, brother of Mukesh, deceased, on the allegation that

Mukesh was married to Harkesh about 8-9 years ago. It was the second marriage for both. Harkesh died about 03 months back. Mukesh was turned out of her matrimonial home and with the intervention of members of the Panchayat, she was rehabilitated. Her grandmother, Prem, step-son, Amit (present petitioner) and other relations used to harass and physically assault Mukesh. On 20.08.2020 at about 10.00 a.m., Rajesh, brother of the deceased, received a telephonic call from Amit (present petitioner) that Mukesh had consumed sleeping pills. Another call was received from Balwan, Ex-Sarpanch that Mukesh had consumed pesticide (spray) and she was being taken to the hospital. When the complainant reached the hospital, Mukesh had already expired.

Counsel for the petitioner submits that the petitioner is the step-son of the deceased and was born out of the first marriage of Harkesh. He submits that Mukesh (deceased) used to remain depressed and though the allegations have been levelled in the FIR against the petitioner and other family members of mental and physical harassment, those allegations in themselves are not sufficient to instigate the deceased to commit suicide. Counsel has also made a reference to the examination-in-chief of PW3-Ashok, complainant, to argue that there are major contradiction in his examination. Reliance has been placed by counsel upon the judgment of Supreme Court in **Sohan Raj Sharma Vs. State of Haryana 2008(2) RCR (Criminal) 810** to urge that alleged harassment must have the effect of inducing the victim to commit suicide. He contends that the prosecution

does not possess any incriminating material against the petitioner. According to the counsel, petitioner, who is a young boy of 21 years of age, with unblemished past and is in custody since 31.01.2021, deserves to be released on bail as investigation has been completed, challan has been presented and examination-in-chief of the complainant, has been concluded.

Per contra, State counsel upon instructions from ASI Ashok Kumar, has opposed the petition and submits that initially FIR was registered under Section 302 IPC read with 34 IPC but after completion of investigation, challan under Section 306/34 IPC has been presented on 01.03.2021 against the petitioner and his brother. Charge has been framed on 06.08.2021. She submits that after examination-in-chief of the complainant, an application under Section 319 Cr.P.C has been filed and remaining 16 prosecution witnesses are yet to be examined. As per her instructions, FSL report has been received and poison has been detected in the viscera.

I have considered the respective submissions of counsel for the parties.

Considering the facts and circumstances, this Court is prima facie of the view that the complicity of the petitioner in the offence, would remain debatable and the petitioner, who is a young boy of 21 years of age and is in custody for the last more than 09 months, would be entitled to be released on bail as the trial is at the initial stage and is likely to take time to conclude.

Without examining the merit or demerit of the arguments addressed by counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

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

November 23, 2021
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>