

Navdeep Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Rajesh K. Dadwal, Advocate
for the petitioner

Mr. M.S. Nagra, AAG Punjab

Mr. Tarundeep Kumar, Advocate
for the complainant

Sudhir Mittal, J. (Oral)

The petitioner seeks regular bail in case FIR No. 63 dated 17.07.2020 registered at Police Station Sadar Raikot, Police District Ludhiana Rural, District Ludhiana under Section 304-B IPC.

Learned counsel for the petitioner submits that the petitioner has been in custody for over nine months and there is no other case pending against him. The trial is not likely to be concluded at an early date as even charges have not yet been framed. The postmortem report and report of the chemical examiner have been received and have been examined by this Court in CRM-M-40381-2020 filed by Charanjit Kaur (mother of the petitioner) and on perusal of the same it has been opined that the death may not be due to unnatural causes. Thus, petitioner may be granted regular bail.

Custody certificate dated 28.05.2021 has been sent through E-mail. The same is taken on record. According to this custody certificate, the petitioner has undergone actual custody of 9 months and 8 days and there is no other case pending/decided against him.

Learned counsel for the complainant submits that charges have not yet been framed. Under Section 113-B of the Indian Evidence Act, 1872, presumption arises when the death was caused on account of dowry demand as the dead body was recovered in the matrimonial home within one year of the marriage. Thus, the petitioner is not entitled to grant of regular bail.

Custody period of the petitioner is not in dispute nor is it in dispute that the trial is not likely to be concluded at an early date. The postmortem report as well as report of the chemical examined do not conclusively disclose unnatural death as has been found in CRM-M-40381-2020 titled as ***Charanjit Kaur vs. State of Punjab***. Section 113-B of the Indian Evidence Act, 1872 is not attracted in this case as the presumption would arise only if it is shown that soon before her death the woman had been subjected to cruelty or harassment for, or in connection with, any demand of dowry. This is not the situation in this case as evidence has yet to be led. In any case presumption can be rebutted by positive evidence.

In view of above, I deem it appropriate to grant regular bail to the petitioner.

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

It is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

May 28, 2021

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No