

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

246

**CRM-M-23678-2021 (O&M)
Decided on : 20.08.2021**

SAHABAJ

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
(Through Video Conferencing)**

PRESENT: Ms. Puja, Advocate
for the petitioner(s).

Mr. Anmol Malik, DAG Haryana.

Mr. Azad Khan, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C., for grant of regular bail to the petitioner in case FIR No.287 dated 19.06.2020 under Section 498-A, 304-B and 406 of the IPC registered at Police Station Sadar Nuh District Nuh.

Learned State counsel has placed on record the viscera report along with Annexure R-1 and R-2 through email. The same are taken on record subject to all just exceptions.

Learned counsel for the petitioner submits that a perusal of the aforementioned FSL report leaves no manner of doubt that the deceased had died a natural death inasmuch as, no poison was detected in any of the exhibits which were sent to the Forensic Science Laboratory for examination. She further submits that in the wake of the FSL report coupled with the fact that in the post-mortem report of the deceased, no internal or external injuries were found on the person of the deceased by the doctor concerned, the ingredients to

attract the mischief of Section 304-B IPC were thus clearly amiss.

Learned counsel appearing for the complainant while opposing the prayer and submissions of the learned counsel for the petitioner submits that there was a confessional statement made by the petitioner before the investigating agency, wherein, he had confessed that the deceased had been administered poison by him. Learned counsel further submits that the FSL report, on which the learned counsel for the petitioner is placing great deal of reliance, deserves to be rejected as it is merely a scientific report and not the opinion of the doctor qua the cause of death.

Learned State counsel has however not been able to controvert the fact that the doctor who conducted the post-mortem of the deceased had categorically stated that he would be in a position to give opinion qua the cause of death only after the receipt of the FSL report and the FSL report, which has been placed on record today, does not reveal the presence of any poison in the viscera or other exhibits which were sent to it.

Learned counsel for the petitioner has yet again reiterated her submissions made before this Court on 30th June 2021, that in the wake of categoric findings in the FSL report qua absence of any poison and also the post-mortem report, no case was made out against the petitioner under Section 304-B IPC, as now it stood established that the deceased had died a natural death and not an unnatural death, which is an essential ingredient to attract the mischief of Section 304-B IPC. She has vehemently controverted the submissions made by the learned counsel for the complainant qua alleged confession made by the petitioner before the Police of having administered poison to the deceased. Learned counsel submits that not only was the said confession hit by Section 25 of the Indian Evidence Act and was inadmissible

in evidence, but the FSL report which has been received, does not corroborate the said factum of forcible administration of poison to the deceased.

Heard and perused the material on record.

The petitioner has been in custody since 23rd June 2020 and hence there is no likelihood of the trial concluding in the near future as only charges stand framed. The present petition is allowed and the petitioner is admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

August 20, 2021

S.Sharma(syr)

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>