

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-26500-2020 (O&M)
Date of Decision:- 1.4.2021

Sunder Singh ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Mohit Rathee, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
assisted by ASI Rakesh.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.401, dated 25.5.2018, Police Station Sadar, District Gurugram, under Section 302 IPC.
2. The FIR was lodged at the instance of Nirotan wherein he alleged that his daughter Asha had been married to Sunder and they were residing together in a rented accommodation in District Gurugram. It is alleged that complainant's daughter Asha was however, mentally

disturbed since the last several days. On 24.5.2018, the complainant received a call from his son-in-law Sunder that Asha had expired and upon which the complainant went to Gurugram and came to know that his daughter had not been taking proper meals on account of her mental problems and had died on account of her illness. The complainant stated therein that he does not suspect any foul play and he does not wish to take any action.

3. However, upon post mortem examination of the dead body of Asha, it was found that it was a case of Asphyxia due to 'ante mortem neck compression' and on account of which FIR under Section 302 IPC was lodged despite the fact that the complainant had given a clean chit in the matter.
4. Subsequently a supplementary statement of the complainant was recorded wherein he alleged that it is his son-in-law who is responsible for murdering his daughter Asha and that he should be taken to task.
5. Learned counsel for the petitioner has submitted that he has falsely been implicated in the instant case and that no sanctity can be attached to the versions putforth by the complainant inasmuch as he has been changing his stand as in the initial version putforth by him he had stated that he does not suspect anyone but subsequently in the supplementary statement he has levelled allegations against the petitioner.
6. Learned counsel for the petitioner has further submitted that although the complainant in his supplementary statement had stated that since

the daughter of the deceased was not happy in her matrimonial home, there used to be some dispute in the family of the deceased on the said count but when the daughter of the deceased was examined during the course of trial, she in her statement (Annexure P-2) categorically stated that she is residing happily in her matrimonial home and that there is no matrimonial dispute and that her mother was suffering from some psychological problems and that her father had not murdered her mother.

7. Opposing the petitioner, learned State counsel has submitted that since the complainant in his supplementary statement has categorically levelled allegations to the effect that the deceased had been strangled by the petitioner and that even the medical evidence fully supports the said version, no case for grant of bail is made out. Learned State counsel has informed that in the instant case 9 out of cited 14 PWs have been examined and that the complainant however, stands expired. It has further been informed that the petitioner as on date has been behind bars since the last about 2 years and 10 months.
8. I have considered rival submissions addressed before this Court.
9. Without commenting anything as regards merits of the case, this Court however, cannot overlook the fact that the petitioner has been behind bars since the last about 2 years and 10 months. The complainant already stands expired and the other material witness i.e. daughter of the deceased has not supported the case of prosecution. Under these circumstances, further detention of the petitioner will not

serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

April 1, 2021

mohan

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No