

211.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36999-2020

Date of decision: 29.01.2021.

DEEPAK

... Petitioner

Versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. S.S. Mor, Advocate,
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

This is second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.45 dated 22.03.2019 registered under Sections 201, 304-B, 498-A, 34 of IPC (Section 34 IPC deleted during investigation) at Police Station Sadar Bahadurgarh, District Jhajjar.

The earlier petition filed by the petitioner i.e. **CRM-M-33116-2019** was dismissed as withdrawn vide order dated 20.08.2019.

The aforesaid FIR was registered at the behest of Sudesh, who is mother of the deceased Kiran. As per the FIR, the marriage of Kiran (deceased) was solemnized with the petitioner on 10.12.2017 and after her

marriage, the accused, namely, the present petitioner (husband), parents-in-law, brother-in-law and sister-in-law of the deceased gave beatings to her on account of demand of dowry. Two months prior to the registration of the case, brother-in-law and sister-in-law tried to kill the deceased. The complainant had visited the matrimonial house of her daughter in Kanonda. There Dharmender (*behnoi* of the deceased) was also present. On 15.03.2019 also the deceased was given beatings by the accused including the present petitioner and on that day also, the daughter told the complainant about the apprehension of threat to her life from her in-laws. Thereafter, on 18.03.2019, the complainant had a word with her daughter on phone at around 12:00 noon and at around 3:00 PM, brother-in-law of the deceased informed the complainant about the death of Kiran that she has committed suicide by hanging.

Counsel for the petitioner has argued that the police has conducted investigation and all the other accused except the present petitioner were found innocent. The petitioner is in custody since 05.04.2019. The complainant was present at the time of cremation and there is no allegation that the deceased was given any injury or any injury was found on her person. Further, Ishwar Singh, who is brother-in-law (*nandoi* of the complainant) also reached at the time of death of Kiran, has also not made any allegation that the deceased was given any injury. Counsel has referred to the statement of Ishwar Singh recorded under Section 161 Cr.P.C. (Annexure P-2). He has also relied upon the statement of Surender Singh son of Kali Ram, recorded under Section 161 Cr.P.C. (Annexure P-3).

Learned State counsel does not dispute the custody. However, he submits that the complainant has been examined in the case and she has deposed against the petitioner specifically that at the time of funeral of her daughter, she and her son were not allowed to see her daughter and thereafter, she asked her son to call Ishwar so as to inform him that the accused has committed murder of her daughter and they are not allowing her to see her body. The complainant had seen the dead body of her daughter and blood was oozing from the nose and mouth of her daughter and there were injury marks on the neck of her daughter and knot of the *chunni* was tied around the neck of her daughter.

I have heard learned counsel for the parties.

Petitioner is in custody since 05.04.2019. Though the FIR was registered at the behest of complainant-Sudesh, but there is no such recital in the FIR that the complainant has noticed any injury mark on the person of the deceased or blood was oozing from the nose or mouth of the deceased. Ishwar Singh, who is brother-in-law of the complainant, in his statement under Section 161 Cr.P.C. has stated that the deceased was cremated after due consultation with the complainant without any information to the police.

In the absence of any postmortem report so as to establish the injuries alleged by the complainant, but noticing the fact that the petitioner is in custody and the other persons were found innocent though there were allegations against them, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds

to the satisfaction of trial Court/Duty Magistrate.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

29.01.2021
sanjeev

Whether speaking/reasoned	Yes/No.
Whether Reportable:	Yes/No.