

CRM-M-37063-2020

Date of Decision: 22.9.2021

Manoj Kumar

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Satish Chaudhary, Advocate, for the petitioner.

Mr. Manish Bansal, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.110 dated 7.7.2020 under Sections 302, 307, 323, 498-A IPC registered at Police Station Bond-Kalan, District Charkhi Dadri.

It has been contended by learned counsel for the petitioner that the petitioner is the husband of deceased-Sonia. The marriage in question took place in the year 2012. Thereafter, on 6.7.2020, Sonia suffered burn injuries and she was taken to the hospital, where she remained admitted for about 14 days and finally she succumbed to the injuries on 20.7.2020. The statement of the deceased was recorded by the Judicial Magistrate and after her death the present FIR was registered on the basis of the same. Learned counsel for the petitioner submits that the petitioner was arrested on 20.7.2020. He submits that there was no dispute between the husband and the wife, however, unfortunately, she committed suicide by burning on 6.7.2020. He submits that as the deceased survived for about 14 days while

she was admitted in the hospital, a coloured version was given to the incident and thus, on the basis of the tutored version, the statement of deceased before the Judicial Magistrate was given and the petitioner was implicated. He submits that basically it is a case of suicide under Section 306 IPC and not a murder under Section 302 IPC as projected by the prosecution. He has placed on record the testimonies of the father of the deceased and the brother of the deceased, who have been examined by the trial Court. He invites the attention of the Court to the same, wherein the father of the deceased has not supported the case of the prosecution, as he has deposed before the Court that the deceased was tutored to name her husband for causing the burn otherwise she would be in trouble. He has further deposed that the deceased did not tell him and his family members that she had been burnt by her husband-Manoj Kumar. Resultantly, on request by learned Public Prosecutor, he was declared hostile. Further the brother of the deceased, Vivek Verma has been examined as PW-5, who again had deposed on the same line as of the father and was also declared hostile by the trial Court on request of the learned Public Prosecutor. Learned counsel for the petitioner submits that though the case is based upon the dying declaration but in the facts and circumstances as on date, the innocence of the petitioner is writ large. He has further submitted that the couple has two children of 6 years and 2½ years of age, who are living in very pathetic situation with their grand parents. The sum and substance of the arguments raised by the learned counsel for the petitioner is that the petitioner, deserves the concession of regular bail.

Learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner that the case of the prosecution is

based on the dying declaration recorded by the Judicial Magistrate. He submits that even if the father and brother of the deceased have not supported the case of the prosecution, that would have no bearing on the dying declaration recorded by the Judicial Magistrate. He further submits that in all there are 24 prosecution witnesses and out of the same 8 witnesses have been examined.

I have heard learned counsel for the parties.

There is no dispute that the deceased died in the matrimonial home and the case of the prosecution totally rest upon the dying declaration,. However, the petitioner is behind bars since 20.7.2020 and the father and brother of the deceased have not supported the case of the prosecution. The veracity of the truth in the allegations would be ascertained by the trial Court only after examination of the evidence. However, this Court confines itself only to the attending circumstances qua the prayer made for bail, without commenting on the merits of the case.

The trial would take some time to conclude. In the overall facts and circumstances, I am of the opinion that learned counsel for the petitioner succeeds in making out a case for bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

22.9.2021

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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No