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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.38952 of 2020

Date of Decision: 03.03.2021

GURPREET KAUR @ GOGAPetitioner

Vs

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Ranjinder Singh, Advocate for
Mr. Gurjinder Singh Chahal, Advocate
for the petitioner.

Mr. Amandeep Singh Gill, Sr. D.A.G., Punjab.

Mr. DPS Bajwa, Advocate for the complainant.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

At the very outset, Mr. DPS Bajwa, Advocate for the complainant withdraws his memo of appearance on behalf of the complainant for want of instructions from his client.

Mr. DPS Bajwa, Advocate has been permitted to withdraw his memo of appearance.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.163 dated 19.08.2020, registered under Sections 306 and 34 IPC at Police Station Dirba, District Sangrur.

FIR was registered by Desraj father of the petitioner with the allegations that his elder daughter Kamal Kaur was married to Manjit Singh. Two children took birth from the marriage. Kamal Kaur was harassed by her in-laws, due to which she started living with the complainant for the last 4 years. She was sent to matrimonial house on account of compromise. During the period when dispute was in offing between Kamal Kaur and Manjit Singh, the petitioner developed illicit relation with Manjit Singh and started living with him. Due to the aforesaid reason, Kamal Kaur committed suicide on 19.08.2020.

Learned counsel for the petitioner submitted that infact Manjit Singh filed a petition under Section 13 of the Hindu Marriage Act against Kamal Kaur for dissolution of marriage by decree of divorce on 10.04.2015. After due context, the said petition was decreed by the Addl. District Judge, Sangrur vide decree dated 27.11.2015. The said petition was filed by Manjit Singh on the ground of cruelty. The Addl. District Judge, Sangrur while passing the judgment recorded the following observations in para nos.14 and 15 of the judgment:-

“14. The petitioner and his father has deposed that the respondent used to claim that the petitioner is not of her liking and she used to talk stealthily to the stranger on phone despite objection by the petitioner and the matter which reached at the panchayat where she has admitted

her guilt, the submission made by the learned counsel for the respondent that after the said incident the respondent has remained with the petitioner and the acts of cruelty, therefore, stand condoned cannot be accepted as there has been the mental cruelty at regular intervals caused to the petitioner by the respondent.

15. *The testimony of petitioner Manjit Singh and his father Jagjit Singh has been fully corroborated by PW2 Jarnail Singh resident of village Kakuwal and PW4 Jaspal Singh resident of village Dirba, member panchayat, who have proved the writings made in the panchayat and the conduct of the respondent as well as her brother, who had given beatings to the petitioner.”*

Before parting with the judgment, the Court found that minor son Arwind Singh was in custody of the petitioner and minor daughter Parneet Kaur was in custody of respondent (Kamal Kaur). For their welfare, it was observed that the decree shall be valid only after deposit of Rs.50,000/- in the name of Arwind Singh in a fixed deposit and an amount of Rs.1 lakh in the name of Parneet Kaur minor daughter of Manjit Singh. The said amount was to be paid to them on attaining majority.

By referring to the aforesaid, learned counsel for the petitioner submitted that since there was a valid divorce between Manjit Singh and Kamal Kaur and thereafter Kamal Kaur was not supposed to be living in the company of Manjit Singh. Ingredients of offence under Section 306 IPC are missing

altogether.

The factual position of the case could not be disputed by learned State counsel, however he opposed the bail on the ground that Kamal Kaur was sent to matrimonial house under compromise and she committed suicide in the house of her in-laws. After filing of challan and framing of charges, prosecution evidence has not been started as yet. Petitioner is in custody since 25.08.2020.

Keeping in view the aforesaid facts and circumstances and without meaning anything on the merits of the case at this stage, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to her furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

March 03, 2021

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No