

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

CRM-M-51936-2021

Date of decision : 16.12.2021

Nasib

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sushil Sheoran, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.31 dated 12.02.2021, under Sections 306 and 376 of the Indian Penal Code, registered at Police Station Industrial Area Bhiwani, District Bhiwani.

As per the facts of the case, the present FIR was lodged by complainant-Hanuman son of Omkar. It has been alleged that his marriage was solemnized about 23 years ago and he is father of two grown up sons. His wife Sunil (deceased) was running a cosmetic shop in Village Kairu. He received a call from Sangam Hotel Bhiwani that his wife Sunil committed suicide by hanging in the bathroom. On receiving this information, he reached Sangam Hotel and on enquiry, he found that the petitioner-Nasib son of Puran committed rape with her wife and hence, under the compelling

circumstances, she committed suicide by hanging in the bathroom. The FIR was lodged for taking action against the culprits. Investigation commenced and thereafter, the petitioner was arrested on 12.02.2021. The petitioner approached the learned Additional Sessions Judge, Bhiwani, who after hearing the parties, dismissed the application for grant of regular bail vide his order dated 26th November, 2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner vehemently contends that from the bare reading of the allegations in the FIR, no offence as alleged is made out against the petitioner. He submits that the deceased was 39 years of age whereas, the petitioner is 37 years of age and as both are of the age of majority, there cannot be any misconception of fact on the part of the petitioner. He submits that reading the Section 306 IPC with Section 107 IPC, there cannot be any instigation on the part of the petitioner for having instigated the deceased to commit the suicide. He has submitted that the facts and circumstances of the case would show that even if the allegations in the FIR are found to be true then the relationship between deceased and the petitioner was totally consensual. He has further submitted that the petitioner approached the learned Additional Sessions Judge, Bhiwani for grant of bail and the only ground for rejection of his bail was that the complainant has not been examined. He submits that the petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel, on instructions from ASI Varinder Kumar, submits that the investigation was thoroughly conducted and the complicity of the petitioner is writ large. However, he

submits that out of total 28 prosecution witnesses, 18 witnesses have been examined including the complainant. He submits that the complainant has also supported the case of the prosecution and primarily all the material witnesses stand examined

I have heard learned counsel for the parties and perused the records.

Petitioner and the deceased both are of the age of majority. The petitioner is behind the bars since 12.02.2021. Primarily all the material witnesses have been examined. The veracity of the allegations would be finally established by the trial Court on conclusion of the trial. This Court would refrain from commenting upon the merits of the case.

In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds 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.

16.12.2021
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No