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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43204-2019

Date of decision : 16.12.2021

Rahul Kumar

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vishal Munjal, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.14 dated 22.04.2018, under Sections 304-B and 302 of the Indian Penal Code, registered at Police Station Narot Jaimal Singh, District Pathankot.

Succinctly, the facts of the case are that the present FIR was registered by complainant-Thuru Ram son of late Sh. Sant Ram. It was alleged that he is resident of Chak Munsifdar PS Kathua, District Kathua J&K and has retired from Army. His brother Mohinder Lal and sister-in-law Sudesh Kumar died about 15 years back whose daughter Monika Bala, was aged about 04 years at that time was brought up by him. After attaining the age of marriage, she was married on 4th December, 2017 with Rahul Kumar

i.e. the petitioner. Since the parents of Rahul Kumar died, he was living with his great maternal parents in Village (Naanke Village) Datial. After marriage Monika Bala was being harassed by her in-laws for demand of dowry. Monika Bala told them many times regarding the harassment caused by the in-laws and he made efforts to resolve the dispute as well but the same was of no consequence. Finally, on 21st April, 2018 at about 03:00 pm, complainant came to know at telephone that Monika Bala having been fed up from her in-laws, has set herself on fire. Hearing the news, he went to village Datial and found the burnt dead body of his niece Monika Bala. The FIR was registered to take the action against the culprits. On the commencement of the investigation, the petitioner, who is the husband of the deceased, was arrested on 21st July, 2018. The petitioner approached learned Additional Sessions Judge, Pathankot, who after hearing both the parties, dismissed the application for grant of bail vide his order dated 9th May, 2019. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition.

Learned counsel for the petitioner contends that though, the petitioner is husband of the deceased, however, there was no harassment or cruelty caused at his behest as alleged by the complainant. He submits that in all, there are three accused in this case i.e. the petitioner, Hansraj and Champa and rest of the two accused were enlarged on bail. He submits that besides the false implication of the petitioner in this case, the custody of the petitioner is virtually 3 ½ years and the prosecution has cited 27 witnesses out of which, only 03 witnesses have been examined so far. He submits that the long incarceration during trial itself entitles the petitioner for grant of

bail.

Learned State counsel submits that the deceased Monika Bala died in the matrimonial home within six months of the marriage. He further submits that the presumption under Section 113-B of the Evidence Act is directly attracted in this case. However, he has placed on record the custody certificate of the petitioner which would show that the petitioner has undergone total actual period of 03 years, 04 months and 24 days as on 15th December, 2021.

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

Petitioner is behind the bars since 21.07.2018. Rest of the two accused are already on bail. The custody certificate placed on record shows that the petitioner has virtually completed 03 years and 05 months in custody. There are 27 prosecution witnesses, out of which, only 03 witnesses have been examined so far. The veracity of the allegations would be decided only on the conclusion of the trial on the basis of the evidence produced by the parties.

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. Without commenting upon the merits of the case and 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