

108.

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-4360-2022

Date of Decision: 04.02.2022

(Heard through VC)

JARNAIL SINGH

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Riffi Birla, Advocate, for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. Balbir Kumar Saini, Advocate, for the complainant.

JAISHREE THAKUR.J (Oral)

This is a petition that has been filed under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for grant of interim bail to the petitioner in case FIR No.23, dated 13.03.2021, registered under Section 302 IPC and Section 27 of Arms Act, 1959 at Police Station Makhu, District Ferozepur, during the pendency of trial, for a period of 7 days to attend the last ceremonies of his nephew who was being brought up by him.

Learned counsel appearing on behalf of the petitioner would submit that the nephew of the petitioner has expired on 29.01.2022 and that there is no other male member in the family to perform the last rites and ceremonies.

Notice of motion.

At this stage, appearance has been caused by Mr. Balbir Kumar Saini, Advocate, on behalf of the complainant, who opposes the grant of interim bail by contending that the father of the nephew of the petitioner is alive and the father would be relevant person to perform the last rites and ceremonies. He would argue that the petitioner herein has been nominated as an accused in the FIR registered under Section 302 IPC wherein it has been alleged that he has committed the murder of his own wife. There are eyewitnesses to the said account who have yet to be examined. It is also submitted that the petitioner herein is in possession of arms which have not been recovered and, therefore, there would be every apprehension that in case he is allowed interim bail for a period of 7 days, as prayed for, he would threaten the eyewitnesses, who though being his own children would be put at risk.

At this stage to counter the argument of counsel for the complainant, counsel appearing on behalf of the petitioner would rely upon a judgment of a coordinate Bench of this Court in CRWP-10162-2021, titled as *Naveen Kumar Versus State of Haryana and others*, decided on 28.10.2021 wherein in similar circumstances, the accused therein had been allowed parole, holding that a person cannot be deprived of attending a significantly important family event.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab, who is present through the medium of video conferencing, accepts notice on behalf of the respondent-State. He, on instructions from ASI Jaswinder Singh, submits that the deceased was residing with the petitioner at one point in time but after his marriage, has been residing separately.

Heard.

The question posed before this Court would be whether the petitioner is entitled to grant interim bail to attend the last ceremonies of his nephew who allegedly was residing with him and the answer is in negative.

The petitioner herein is not the father of the deceased. He may have been residing with the deceased at any point in time but after solemnization of his marriage, he has been residing separately. The deceased has a father and other family members to perform his last rites and ceremonies. This order is being passed taking into consideration that the petitioner has been nominated as an accused for the murder of his own wife and there are eyewitnesses being his own children who have yet to be examined.

Since the eyewitnesses are yet to be examined, therefore, there is every possibility that the petitioner may influence them if he is released on interim bail. The judgment relied upon by the counsel appearing on behalf of the petitioner in the case of *Naveen Kumar Versus State of Haryana and others*, would not be applicable to the present case as the same is for grant of parole after conviction.

Consequently, the present petition stands dismissed.

(JAISHREE THAKUR)
JUDGE

04.02.2022
sanjeev

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