

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

**CRM-M-5661-2022
Date of decision : 13.12.2022**

Lal Chand @ Jony

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sanjeev K. Virk, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. P.S. Jammu, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court praying for grant of regular bail in case FIR No.179 dated 26.06.2021, under Sections 306 IPC, registered at Police Station Sultanpur Lodhi, District Kapurthala.

Adumbrated facts of the case are that the present complaint was lodged by Chetan Mehta i.e. husband of the deceased. It was alleged that he was married with Shivani Mehta on 21.11.2002 and they were blessed with two sons. Lal Chand @ Jony (petitioner) used to work in his factory as driver for the last four years. He was a frequent visitor to their home and also he used to go to the market for the domestic purpose of their home. The complainant got suspicious regarding the relationship of Lal Chand @ Jony with his wife. Hence, he removed him from the job about 1 ½ years back. On 25.06.2021, when his younger son Kartik returned home, he saw Lal Chand @ Jony coming out of their home through lobby. On his asking Lal Chand @ Jony felt nervous. His

son Kartik reached in the lobby and found the door bolted from inside. He informed his father telephonically that his mother is not opening the door. The complainant rushed to home. They pushed the door and on opening, they saw that his wife Shivani Mehta was hanging with the fan. He was rushed to the hospital where she was declared dead. It was alleged that as Lal Chand @ Jony caused harassment to his deceased-wife and hence, legal action be taken against the culprit. On the basis of the complaint, formal FIR was registered for the offence under Section 306 IPC. Petitioner was arrested on 26.06.2021. The statements of the witnesses were recorded and the challan was presented against the petitioner. Petitioner approached the Court of learned Sessions Judge, Kapurthala praying for grant of bail. After hearing counsel for both the sides, learned Sessions Judge declined the same vide his order dated 10.01.2022. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely roped in the present case. He has submitted that admittedly the petitioner was employed as a driver in the factory of the complainant. However, about 1 ½ year prior to the occurrence, he was removed from his job by the complainant. He submits that the allegations pertaining to the presence of the petitioner in the house of the complainant, are not sufficient enough for implicating him for the offence under Section 306 IPC. He submits that for making out the offence under Section 306 IPC, instigation/abetment under Section 107 IPC has to be made out. However, from the material on record the essential ingredients for including offence under Section 107 IPC is not

made out. He argues that as per settled law, the conduct of the accused should have direct bearing on the final result but in the present case, in view of the presence of the accused in the house of the complainant where he was earlier employed as well would not constitute the offence under Section 306 IPC read with Section 107 IPC. He has submitted that the petitioner is behind bars from last about 1 ½ years. He further submits that the petitioner has no criminal antecedents. He further submits that till date, the prosecution has not examined even a single witness. Thus, he argues that the petitioner deserves to be granted bail.

Learned counsel for the complainant has opposed the submissions made by counsel for the petitioner. He has submitted that though the petitioner was working in the factory of the complainant, however, his presence was very much proved as he was seen by the son of the deceased and after being seen, he escaped from there.

Learned State counsel has submitted that in the offence under Section 306 IPC, complicity of the petitioner is duly established. A thorough and fair investigation was conducted and the allegations against the petitioner were substantiated and thus, the challan was presented against the petitioner for the offence under Section 306 IPC. He has submitted that the charges are also framed and out of 20 prosecution witnesses, no witness is examined as on date. He has also submitted that as per the instructions provided, the petitioner is not involved in any other case.

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

Evidently, the petitioner was employed by the complainant in his factory and he was removed from the service about 1 ½ year prior to the date of occurrence. Whether the offence under Section 306 IPC read with Section 107 IPC is made out or not is totally a subject matter of the outcome of the trial. There is nothing on record to show that the petitioner is involved in any other case. The investigation already stands completed. Charges are also framed. As submitted before this Court, in all there are 20 prosecution witnesses and no witness has been examined till date by the prosecution. The petitioner is behind bars from last about 1 ½ years. The speedy trial is the right of every accused.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence led by both the parties before the trial Court. The trial of the case will take sufficiently long time. This Court would refrain itself from commenting anything on the merits of the case. However, confining itself to the prayer made for bail, this Court finds that counsel for the petitioner succeeds 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 his 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.

(**RAJESH BHARDWAJ**)
JUDGE

13.12.2022
m. sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No