

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(205)

CRM-M-15011-2022(O&M)
Date of Decision: 07.07.2022

Ravi Kant Sharma

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Ms. Aashna Gill, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

Mr. J.S. Walia, Advocate for the complainant.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 438 Cr.P.C praying for granting anticipatory bail to the petitioner in case FIR No.814 dated 10.11.2021 registered under sections 304-B, 34 IPC at Police Station, City Hansi, Hisar.

Succinctly the facts of the case are that the deceased Srishti was married with the petitioner on 1.12.2016. She committed suicide on the intervening night of 21/22.10.2021 by way of hanging. FIR in question was lodged by the father of the deceased. It was alleged that he spent Rs.20 lakh in the marriage of his daughter, however, soon after the marriage her in-laws were not satisfied with the dowry given, they started harassing and taunting his daughter for bringing less dowry. She was persistently pressurized to bring another amount of Rs.10 lakh and for not having met the demand she was being maltreated. They tried their best to convince the in-laws of his daughter, however, the harassment of their daughter at the hands of her husband and in-laws kept on increasing unabated. On

21.10.2021 at 10 PM his daughter called her younger brother and apprehended that her in-laws would kill her. On the intervening night of 21/22.10.2021 at about 10 PM a person namely Bharat Pandey called the complainant that his daughter is no more. The complainant and his family members reached Hansi in the night, where the husband of her daughter i.e. the present petitioner and his family members behaved indecently with the complainant. They pressurized the complainant and his family members not to take any legal action. However, the FIR was lodged to take legal action against the culprits.

The investigation commenced and postmortem of the deceased was conducted. Apprehending arrest the petitioner approached the learned Special Court for Heinous Crimes against Women, Hisar praying for grant of anticipatory bail. However, after hearing the parties, the same was declined vide order dated 24.3.2022. Aggrieved by the same, petitioner has approached this Court for grant of anticipatory bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. She has submitted that the alleged occurrence took place on 21.10.2021 and the family members of the deceased were duly informed. They suspected no foul play after coming to the matrimonial home of their daughter and thus no complaint was made, however, after due deliberations the present FIR was lodged on 10.11.2021 i.e. after a delay of about 20 days. She submits that there was no mark of external injury on the body of the deceased and as per the postmortem report the cause of death was declared to be asphyxia due to hanging. She submits that the death of the deceased

took place after about 5 years of her marriage and the deceased had never made any complaint whatsoever regarding her harassment and cruelty as alleged in the FIR. She submits that as there is no evidence regarding any harassment on account of the demand of dowry soon before the death of the deceased the presumption under Section 113 of the Evidence Act is not attracted. She submits that the petitioner has no criminal antecedents and hence he deserves to be granted bail.

Learned counsel for the complainant has opposed the submissions made by counsel for petitioner. He submits that admittedly the unnatural death of the deceased has taken place within 7 years of the marriage. He submits that the petitioner is the husband of the deceased and there are specific allegations against him regarding the harassment caused to the deceased persistently on account of demand of dowry. He further submits that the occurrence has taken place in the matrimonial home and hence the burden lies on the petitioner and his family members to explain the circumstances under which the deceased ended her life. He submits that in view of the facts and circumstances of the case, all the ingredients requisite for the offence under Section 304-B IPC are fulfilled and hence the presumption under Section 113 of the Evidence Act is attracted against the petitioner and all the co-accused. He submits that in the facts and circumstances of the case no case for grant of bail is made out and the present petition deserves to be dismissed.

Learned State counsel has opposed the submissions made by counsel for the petitioner. State has filed a status report by way of an affidavit of Jugal Kishore, Dy.S.P., Narnaund, Hansi, District Hisar. State

counsel has drawn attention of this court to the status report filed, wherein the proceedings under section 174 Cr.P.C were carried out and the postmortem was conducted. As per the postmortem report the cause of death has been said to be asphyxia as a result of constriction forced around the neck which is sufficient to cause death in the ordinary course of nature. On 29.4.2022 the IO moved an application to the Medical Officer for seeking opinion of the cause of death. After receiving the report of the Chemical Examiner and in pursuance to the same it was opined by the doctors that cause of death is the same as mentioned in the postmortem report. He submits that deceased died an unnatural death within 5 years of her marriage. There are specific allegations against the husband and in-laws for causing harassment to the deceased on account of demand of dowry and hence the petitioner cannot escape the presumption to be drawn against him under section 113-B of Evidence Act. He submits that the case is under investigation and keeping in view of the gravity of the offence and the attending circumstances, no case for grant of anticipatory bail is made out.

I have heard learned counsel for the petitioner at length and have gone through the record carefully.

Admittedly, the deceased was married with the petitioner on 1.12.2016 and she died an unnatural death on 21.10.2021. It has been specifically alleged in the FIR that the daughter of the complainant i.e. the deceased was being pressurized for bringing more dowry and they were not satisfied with the dowry given in the marriage. The deceased used to complain to her parents about the harassment caused by the petitioner and

his family members. The postmortem conducted corroborates the unnatural death of the deceased. The unnatural death of the deceased has taken place in the matrimonial home. There is no gainsaying that the case in hand pertains to heinous category and requires a thorough and fair investigation.

The Hon'ble Supreme Court has time and again held that while considering the anticipatory bail the court should take into consideration the factors like the gravity of the offence, the probability of the accused fleeing from the justice, the possibility of the accused scuttling the ongoing investigation. Besides this the court is also to strike a balance between the personal liberty of the individual and the overall interest of the society. However, the overall interest of the society would always prevail upon the personal liberty of the individual. The Hon'ble Supreme Court in *State (represented by CBI) vs. Anil Sharma (1997) 7 SCC 187* has held that the custodial interrogation is more effective in qualitative elicitation.

Keeping in view the facts and circumstances of the case and gravity of offence involved, this court does not find any merit in the present petition and the same is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

07.07.2022

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