

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(206)

CRM-M-15414-2022
Date of decision:- 22.12.2022

Devi Dayal @ Yogesh @ Kala

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. R.N. Lohan, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

Mr. R.S.Mamli, Advocate has put in appearance on behalf of the complainant and has filed Vakalatnama, which is taken on record.

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in case FIR No.597 dated 29.11.2021, registered for offences under Sections 304-B and 34 of the Indian Penal Code, 1860 (for short "IPC"), at Police Station City Jind, District Jind.

Version of the prosecution is that FIR has been registered on the statement of Ashok Kumar, father of Pooja, who is aged twenty three years, stating that she was married to Anil on 22.08.2015 and had a daughter from the marriage. It has been stated that despite having given sufficient dowry, her husband Anil, Yogesh @ Kala, brother-in-law (present petitioner), Geeta, sister-in-law, and Darshana, mother-in-law, were not satisfied. On 19.11.2021, when his daughter came to her parental home, she confided of

the harassment being faced by her. Allegation has been levelled that Yogesh @ Kala has been pressurising her to make physical relations with him, which has the consent of her husband. She was sent back to her matrimonial home on 20.11.2021 after an apology from Anil. Abhishek, his son, went to meet her and on coming back on 28.11.2021, informed that her in-laws have not desisted from their activity. On 29.11.2021, a telephonic call was received by Abhishek informing that Pooja has hanged herself to death.

Counsel for the petitioner contends that there are general allegations against the petitioner. He submits that the petitioner is separate in residence and besides the petitioner, some other family members have also been implicated, even though both, Geeta and Darshana, were found to be innocent during investigation. He submits that the allegation of seeking sexual favour has not been established during the investigation. Counsel submits that both the complainant and his son have been examined as PW-1 and PW-2, respectively, and there are inconsistencies in their evidence. He asserts that the petitioner, who is in custody since 04.12.2021 and enjoys a clean past, deserves to be enlarged on bail.

Countering the submissions, State counsel, who is assisted by counsel for the complainant, have submitted that there are allegation of harassment on account of non-fulfilment of demand of dowry and death has taken place within seven years of marriage. It is their argument that essential ingredients of Section 304-B, IPC are satisfied. Upon instructions, it has been submitted that the petitioner was living in the same premises as the deceased, though on the upper floor. State counsel has also invited the

attention of the Court to the post-mortem of the deceased to submit that there were some recent injuries on the body of the deceased. Still further, she submits that an application was submitted for summoning Geeta and Darshana as additional accused, but the same was rejected by the Trial Court. As per instructions received from SI, Balwan, she submits that four out of seventeen prosecution witnesses have been examined.

Having considered the submissions made by counsel for the parties, this Court is prima facie of the view that as both the material prosecution witnesses have been examined and the complicity of the petitioner in the crime would be a subject matter of debate before the Trial Court. Petitioner, who is in custody for the last more than twelve months, deserves to be enlarged on bail as the trial is not likely to conclude in the immediate future.

Without adverting to the merits or demerits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)

JUDGE

22.12.2022

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No