

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

CRM-M-17713-2022

Date of Decision: May 18, 2022

Rinka Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present:- Mr. Amit Arora, Advocate for the petitioner.

Mr. Hitten Nehra, Addl. A.G., Punjab.

VIVEK PURI, J. (Oral)

Petitioner is seeking regular bail in case FIR No.46, dated 02.07.2019, under Sections 306 and 34 IPC (offence under Section 306 IPC stands deleted and offence under Section 302 IPC stands added), registered at Police Station Khalra, District Tarn Taran.

Briefly the FIR has been registered on the basis of the statement of Sukhdev Singh, the father of the deceased alleging that the marriage of his daughter, namely, Hina was solemnized with Ranjit Singh @ Gora, who is the brother of the petitioner, about 8 years prior to the occurrence. The husband of the deceased had gone to Gujarat about 3 months prior to the occurrence for doing labour work. The petitioner along with his father Joginder Singh used to harass the deceased. On 01.07.2019, the deceased committed suicide by hanging herself.

Learned counsel for the petitioner contends that initially the case was registered under Section 306 IPC and subsequently the said offence has been deleted and the offence under Section 302 IPC has been added. The petitioner along with his father have been arraigned as accused. The offence punishable under Section 302 IPC has been added

subsequently on the basis of medical opinion without any other incriminating evidence. Further more, during the course of trial, the complainant, who is the father of the deceased has been examined but he has not supported the prosecution version. He has categorically and specifically deposed during the course of trial that the deceased was not having any dispute with her husband or other family members and she was residing happily in the house of her-in-laws. He had also deposed to the effect that neither the husband nor brother-in-law nor father-in-law of the deceased ever tortured her. There is nothing to suggest that deceased or any member of parental family has submitted any complaint against the petitioner or his co-accused at any forum during her life time. The petitioner is in custody for a period of 1 year, 4 months and 25 days and only 3 out of 21 witnesses have been examined so far.

Furthermore, the similarly placed co-accused, namely Joginder Singh, who is the father of the petitioner has been granted bail by this Court in terms of the order dated 04.04.2022 passed in CRM-M No.49173 of 2021.

On the contrary, learned State counsel has argued that though initially the case was registered under Section 306 IPC but he offence was enhanced to 302 IPC on the basis of medical opinion. As per the medical opinion, the cause of death was asphyxia as a result of manual strangulation or throttling as a result of injuries No.1 to 6, which were sufficient in an ordinary course of nature to cause death. However, it has not been disputed that there is no oral or other direct evidence to indicate the commission of murder except the fact that the occurrence took place in the house of the petitioner where the deceased was residing.

It is significant to note that the complainant i.e. the father of the deceased, has not supported the prosecution version, the petitioner is in custody for a period of 1 year, 4 months and 25 days and only 3 witnesses out of 25 witnesses have been examined so far. Furthermore, it will be a debatable matter as to whether the offence falls under Section 306 or 302 IPC. No complaint was submitted at any forum with regard to harassment meted out to the deceased during her life time. There is no eye witness to the occurrence and only circumstance that weighs at the moment against the petitioner is to the effect that the occurrence took place in his house. Besides, the similarly placed co-accused namely Joginder Singh has been granted regular bail by this Court. The petitioner also becomes entitled to bail on the principle of parity.

In these circumstances, sufficient grounds are made to extend the concession of bail to the petitioner.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate.

May 18, 2022

sarita

(VIVEK PURI)

JUDGE

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