

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

CRM-M-22563-2021
Date of Decision: 9.8.2022

Sarabjit Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ashok Giri, Advocate, for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

Mr. Harpal Singh Sidhu, Advocate for

Mr. Manu Nagrath, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.150 dated 19.5.2020, registered under Sections 406/498-A/34 IPC (Sections 304-B read with Section 302 IPC added later on vide DDR No.20 dated 21.5.2020), at Police Station Sadar Amritsar.

As per factual matrix of the case, mother of the deceased Phoola Rani made a complaint to the Police, wherein it was alleged that her younger daughter Simran, who was BAMS, was married on 1.2.2019 with Dilbag Singh, who is also BAMS Doctor. It was soon after the marriage, in-laws of her daughter started harassing her on account of demand of dowry. They deposited Rs.5 Lacs in the account of her daughter, however, the son-in-law misappropriated all the dowry goods and articles with the help of his family members. It was alleged that her father-in-law Sarabjit Singh and mother-in-law Dhan Kaur started pressurizing her daughter to bring money from her parents as they wanted to construct hospital. Tyranny for her

daughter continued unabated and hence, she injected herself on 17.5.2020 and lateron, she succumbed to the same on 21.5.2020. The request was made to registered FIR and take legal action against the accused who caused harassment to her daughter on account of demand of dowry, due to which she committed suicide. The FIR was registered and the investigation commenced and the petitioner was arrested on 24.6.2020. The petitioner approached the learned Addl. Sessions Judge Amritsar for grant of bail, who, after hearing the parties, declined the same vide order dated 2.2.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Learned counsel for the petitioner has contended that the petitioner is the father-in-law of the deceased, who is residing separately from the matrimonial home of the deceased. He submits that though the husband and wife were BAMS Doctors and the petitioner had no role whatsoever in causing harassment or demanding dowry from the deceased as alleged in the FIR. He submits that even from the reading of the allegations in the FIR, there are general and omnibus allegations, which are not sufficient to constitute an offence under Section 304-B IPC against the petitioner. He submits that the learned trial Court had framed alternate charge under Section 302-B IPC as well, however, the petitioner agitated the same and now he is being prosecuted for the offence under Section 304-B IPC only. He submits that after the framing of the charge the evidence has started afresh and in all there are 21 prosecution witnesses, out of which only one has been examined so far. He submits that whether presumption under Section 113-B of the Evidence Act is attracted or not, would be a

debatable issue, however, the petitioner has an unblemished record as he has never been involved in any other criminal case. He submits that in the facts and circumstances of the case, the petitioner, who is 63 years of age, deserves to be granted bail.

Learned counsel for the complainant has opposed the submissions made by learned counsel for the petitioner. He submits that there are specific allegations against the accused in the FIR including the petitioner. He submits that the deceased died unnatural death in the matrimonial home within two years of her marriage. He has submitted that the deceased was harassed on account of demand of dowry and she ended her life by committing suicide. He submits that the presumption under Section 113-B of the Evidence Act is applicable and the petitioner deserves no leniency for grant of bail.

Learned State counsel on instructions from ASI Sandeep Kumar, submits that the petitioner is the father-in-law of the deceased and in view of the settled proposition of law, as the deceased died unnatural death within 7 years of marriage, presumption under Section 113-B of the Evidence Act is attracted. However, she candidly acknowledges that after framing of alternate charge under Section 302 IPC, the same was challenged by way of CRR-1393-2021 in the High Court and the High Court set aside the said order of framing of alternate charge under Section 302 IPC. Thereafter, the trial Court framed charges under Sections 406, 498-A, 304-B read with Section 34 IPC. The learned trial Court has begun with recording of evidence afresh.

Heard.

Admittedly, the petitioner is father-in-law of the deceased and is behind bars since 24.6.2020. No doubt, the deceased died unnatural death within two years of her marriage, however, in the overall facts and circumstances of the case, whether in view of the allegations made in the FIR, presumption under Section 113-B of the Evidence Act is attracted or not, would be a debatable issue to be decided by the trial Court on the basis of evidence to be led by the respective parties. There is nothing on record showing that the petitioner has any criminal antecedents. The husband of the deceased is already behind bars. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficient long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail 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.

9.8.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE
Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No