

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(212)

CRM-M-19299-2020(O&M)

Date of Decision: 11.05.2022

Kulwant Singh

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Keshav Chaudhary, Advocate for the petitioner.

Mr. Rakeshinder Singh Sidhu, A.A.G., Punjab.

Mr. Aditya Sanghi, Advocate for the complainant.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C praying for grant of regular bail to the petitioner in case FIR No.82 dated 30.4.2018 registered under sections 304-B, 498-A I.P.C (alternative charge framed under Section 302 IPC) at Police Station Rama Mandi, District Jalandhar.

As per facts of the case, present FIR was lodged by Harvinder Singh. The sum and substance of the allegations in the FIR is that he married his daughter Jaspreet Kaur with Jaspreet Singh in November, 2014. After the marriage the matrimonial dispute started taking place in the family and his daughter was being harassed by her in-laws. She was being taunted for bringing less dowry and thus physical and mental harassment was being caused to her. A number of times it was brought to the notice of the complainant, however, the same continued and finally in the morning on 30.4.2018 they received a phone call that his daughter has committed suicide. FIR was lodged to take legal action against the culprits.

The investigation commenced and the petitioner was arrested on 6.3.2019. Challan was presented against all the three accused. The petitioner approached learned Addl. Sessions Judge, Jalandhar for grant of bail, however, after hearing the parties, the same was declined vide order dated 17.12.2019. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner is the father-in-law and an elderly person, who was not even remotely related to the allegations made in the FIR. He submits that the presumption under Section 113-B of the Evidence Act was also not attracted in the facts and circumstances of the case. During the pendency of this petition an application for the grant of interim bail on the ground of ill health of petitioner was moved and the medical record of the petitioner was produced and after seeking status report from the State, this Court had granted interim bail to the petitioner on medical ground vide order dated 30.7.2020 and since then the petitioner is on interim bail. Report regarding his latest medical condition was also sought from the State. Learned State counsel has filed the status report by way of affidavit of Sukhdeep Singh, PPS, ACP, Central Jalandhar.

Counsel submits that the co-accused i.e. husband and mother-in-law have already been granted bail by this Court. It is submitted that the medical condition of the petitioner remains worse and due to the same the doctors have not found him fit for performing the surgery of his gall bladder. Counsel submits that petitioner has no criminal antecedents. Learned Trial Court has also examined the prosecution witnesses and till date the petitioner has not misused the concession of interim bail granted to

him and hence the petitioner deserves to be granted bail.

On the other hand, learned counsel for the complainant has vehemently opposed the submissions made by counsel for petitioner. He submits that this is not a simple case under Section 304-B IPC, where bride has died unnatural death on account of the harassment, rather, there is an alternative charge framed under Section 302 IPC, wherein the facts and circumstances would show that all the three accused have committed murder and thus it cannot be taken as a suicide by the deceased. He further submits that the material witnesses i.e. the brother and father of the deceased have already been examined by the Trial Court and both these witnesses have duly supported the case of the prosecution. He submits that in view of the facts and circumstances of the case, no case for grant of bail is made out.

Learned State counsel has also opposed the submissions made by counsel for petitioner and submits that there are specific allegations against the petitioners. He further submits that out of the total 30 prosecution witnesses 12 have already been examined. It is also submitted that the presumption under Section 113-B is attracted against the petitioner. He, however, candidly acknowledges that co-accused have already been granted bail.

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

Apparently, the deceased died an unnatural death within four years of marriage. Whether in the facts and circumstances of the case the offence under sections 304-B or 302 IPC is made out or not would be subject to the outcome of the trial to be concluded by the Trial Court. The

petitioner is the elderly father-in-law of the deceased. Co-accused have already been granted bail by this Court. The medical condition of the petitioner has also been verified by the State and a status report in this regard has already been filed. There is nothing on record to show that the petitioner has ever misused the concession of interim bail granted to him on 30.7.2020. The veracity of the allegations levelled in the FIR would be assessed only after conclusion of the trial. In the overall facts and circumstances of the case, this Court finds that counsel for petitioner succeeds in making out a case for grant of bail to the petitioner.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

11.05.2022

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