

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(212)

CRM-M-24919-2021

Date of Decision: 17.03.2022

Rajinder Kumar

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. J.S. Gill, Advocate for the petitioner.

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

Mr. M.S. Virk, Advocate for the complainant.

RAJESH BHARDWAJ.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.9 dated 29.1.2021 under section 306 I.P.C registered at Police Station, Khuhian Sarwar, District Fazilka.

As per factual matrix, the FIR in question was lodged by Raj Kumar son of Tara Chand. It was alleged that the marriage of his daughter was solemnized with Rajinder Kumar i.e. the present petitioner on 14.7.2013. Thereafter, she was blessed with a son. It was further alleged that soon after the marriage his daughter was being harassed by her husband and in-laws on account of petty domestic issues. His daughter kept tolerating the same, however, when the harassment continued she finally committed suicide by hanging herself on 28.1.2021. It was alleged that his daughter

used to inform him telephonically about the harassment caused to her by in-laws. It was also alleged that his daughter committed suicide on account of harassment caused to her by the present petitioner and his family members and legal action be taken against them.

After registration of FIR the investigation commenced and the petitioner was arrested on 30.1.2021. He approached learned Sessions Judge, Fazilka for grant of bail, however, after hearing the parties, the same was declined vide order dated 27.5.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present FIR only being the husband of the deceased and no case under Section 306 I.P.C is made out against him. Counsel submits that the marriage in question took place on 14.7.2013. He submits that the ingredients of Section 306 IPC read with Section 107 IPC are not fulfilled from the facts and circumstances of the case. To buttress his arguments counsel has placed on record the testimonies of the material witnesses. He submits that author of the FIR Raj Kumar has been examined as PW-1 and maternal uncle (mama) of the deceased Ravi Kumar has been examined as PW-2 before the Trial Court. Both these material witnesses have not supported the case of the prosecution and they were declared hostile on the request of learned P.P. Counsel submits that as the material witnesses themselves have not supported the case of the prosecution, further incarceration of the petitioner is totally unwarranted and thus he deserves to be enlarged on bail.

Learned counsel for the complainant has affirmed the submissions made by counsel for petitioner.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that there are specific allegations against the petitioner, who is the husband of deceased. However, he candidly acknowledges that both the material witnesses i.e. PW-1 and PW-2 have not supported the case of the prosecution. It is also submitted that in all there are 15 prosecution witnesses out of which 2 have been examined.

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

Admittedly, petitioner is the husband of deceased and he is behind bars since 30.1.2021. From the arguments advanced by counsel, it is apparent that though initially there were 4 accused in the present case, however, later on 3 of them were declared innocent and challan was presented only qua the present petitioner. Admittedly, material witnesses have not supported the case of the prosecution. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The material witness already stands examined. Whether a case under Section 306 I.P.C is made out against the petitioner or not would be evaluated by the Trial Court after conclusion of the trial. The trial would take sufficiently long time in its conclusion.

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

17.03.2022

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