

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

CRM-M-29331-2021

Date of decision : 08.08.2022

Rohit Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr. J.S. Dadwal, Advocate for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

The present petition is filed under Section 439 Cr.P.C. by petitioner Rohit Kumar seeking grant of regular bail in case FIR No.0142 dated 02.06.2021, registered under Section 306 IPC at Police Station Gate Hakima, District Amritsar.

As per facts of this case the present FIR was lodged on the complaint of mother of the deceased namely Tripta Devi. It was alleged that she married her younger daughter Neha aged about 29 years with Rohit Kumar i.e. the petitioner about 08 years ago. It was alleged that on 02.06.2021 at about 6.30 P.M. she received a phone call from an unknown number that her daughter has locked herself in a room and her husband has broken the door and found that her daughter Neha has committed suicide by hanging herself. She alongwith her son reached at spot and found that her daughter's dead body was lying on the bed. It was alleged that there used to have quarrel daily between husband and wife and she was harassed

by her husband-Rohit and hence she ended her life by hanging. It was alleged that the accused-husband compelled her to commit suicide. On the basis of the same the present FIR was lodged and investigation commenced. The petitioner was arrested on 02.06.2021. He approached the learned Additional Sessions Judge (FTC), Amritsar praying for the grant of bail. After hearing both the parties the learned Additional Sessions Judge declined the same vide order dated 12.07.2021.

Aggrieved by this, the petitioner has approached this Court for grant of regular bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in this case. He submits that the marriage between the petitioner and the deceased had taken place about 08 years ago and during that period there was no complaint whatsoever regarding the harassment and the cruelty caused by the husband to the deceased. He submits that the couple was blessed with two children who are in the custody of their grand-parents at present. He submits that from the beginning of the allegations in the FIR it is apparent that there are very vague and false allegations regarding harassment caused by the husband to the wife. He submits that the allegations against the petitioner are totally false and frivolous as he was not present in the house at the time of death of Neha and when he returned home he found that the room was locked and he broke the door and entered in the room. He was surprised to see his wife hanging from the roof. He submits that in view of the allegations made in the FIR the offence under Section 306 IPC read with Section 107 IPC is not made out so as to instigate the deceased to commit suicide. He submits that the petitioner has no criminal antecedents and he has never been involved in any other criminal case except this case which is also

falsely planted upon him. He submits that after the investigation challan was filed, charges were framed and the trial Court has commenced with the recording of the evidence of the prosecution witnesses. He has placed on record the zimny orders of the trial Court wherein the complainant was summoned by the trial Court, however, she remained absent. The trial court issued the non-bailable warrants on 29.04.2022 and on 31.05.2022 for securing her presence. Despite that on 19.07.2022 she again remained absent and trial Court issued non-bailable warrants for 09.08.2022. He submits that despite having been issued the non-bailable warrant thrice the complainant has not actually come present before the trial Court for her deposition. He submits that the conduct of the complainant is self-speaking that she intentionally remained absent from the trial Court only to prolong the incarceration. He submits that the petitioner has no criminal antecedents and hence in the facts and circumstances of the present case the petitioner deserves to be granted bail.

Learned State counsel submits that there are specific allegations against the petitioner of causing harassment to the deceased on account of which she had committed suicide. She further submits that there are 17 prosecution witnesses, however, despite non-bailable warrants from the Court, the complainant has not come present for her deposition.

Heard.

It is apparent that the petitioner is behind bars since 02.06.2021. The petitioner is the husband of the deceased. The marriage took place about 08 years ago and there is nothing on record that during this period the petitioner has ever caused any harassment to the deceased. However, it is evident that the deceased committed suicide in the matrimonial home on the fateful day. There is also nothing on record to show anything about his

criminal antecedents. The petitioner is having two children who are in the custody of their grand-parents at present. Despite this the perusal of the zimny orders produced before this Court would prima-facie show that the complainant is least interested in making herself available before the trial Court. The trial Court had to issue non-bailable warrants for securing her presence. Despite three occasions, she failed to appear before the Court. This Court is convinced that the absence of the complainant is only to prolong the incarceration of the petitioner. Speedy trial is the right of the accused which cannot be curtailed by such callousness of the prosecution witnesses.

In the totality of the facts and circumstances of the case when the trial of the case will take sufficient time to conclude and no useful purpose will be served by keeping the accused in custody for such a long period, I find that learned counsel for the petitioner succeeds in making out a case for grant of bail.

The present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

08.08.2022

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