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

CRM-M-28225-2022

Date of Decision: July 06, 2022

Kishan Lal and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJPresent: Mr.Abhishek Goyal, Advocate
for the petitioners.

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RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioners in case FIR No.98, dated 07.03.2022, under Sections 304-B, 498-A, 120-B IPC, registered at Police Station Gadpuri, District Palwal.

Counsel for the petitioners has contended that marriage of the deceased Sheetal took place with son of the petitioners Dheeraj on 21.05.2021. Thereafter, though there was no harassment whatsoever on the part of the petitioners, however, the deceased committed suicide on 06.03.2022 by hanging in the matrimonial home. He submits that FIR in question was lodged by father of the deceased wherein the false and frivolous allegations of harassment were levelled against the petitioners and other family members. He has submitted that son of the petitioners was arrested by the police and he was granted regular bail by learned Additional Sessions Judge, Palwal. He submits that post mortem of the deceased was conducted and no external injury was found, however, the cause of death was found to be ante mortem hanging. He further submits that petitioner

No.1 is a retired Army personnel and he has a neat and clean service record.

He also submits that at no stage the petitioner caused any harassment to the deceased and thus, no offence under Section 304-B IPC is made out. He also submits that during investigation, the co-accused Samay Singh (*Fufa*), Vandana (sister-in-law) and Bhoop Singh (brother-in-law) of the deceased were declared innocent by the Investigating Agency, however, both the petitioners were not declared innocent. He submits that presumption under Section 113-B of the Indian Evidence Act is not attracted in this case.

Notice of motion.

On the asking of the Court, Mr.B.S.Virk, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State and vehemently opposes the prayer made by counsel for the petitioners. He has submitted that the petitioners are living in the same house and there are specific allegations against them. It is further submitted that challan has been filed only qua the husband so far and the petitioners are yet to be arrested and the matter regarding them is under investigation.

On the other hand, Mr.Deepanjay Sharma, Advocate, who is present in Court, puts in appearance on behalf of the complainant and vehemently opposes the submissions made by learned counsel for the petitioners. He has submitted that the unnatural death of the deceased took place within ten months of the marriage. He also submits that there are specific allegations against the petitioners regarding causing harassment to the deceased on account of demand of dowry. He has submitted that the petitioners are the parents-in-law of the deceased and their complicity is writ large in the crime and hence they do not deserve the concession of anticipatory bail.

Heard.

Admittedly, the marriage in question took place on 21.05.2021 and the deceased committed suicide by hanging on 06.03.2022, i.e. within ten months of the marriage. A bare reading of the allegations in the FIR would show that there are specific allegations of causing harassment and cruelty to the deceased on account of demand of dowry. The unnatural death within ten months of the marriage is an admitted position. The case is at threshold and as the petitioners could not be arrested so far, case is under investigation qua them. So far as the case of co-accused, i.e. *Fufa*, brother-in-law and sister-in-law of the deceased is concerned, it cannot be considered at par with the case of the petitioners before this Court as the unnatural death has taken place within ten months of the marriage. The Court cannot ignore the presumption under Section 113-B of the Indian Evidence Act at this stage. For consideration of the anticipatory bail, the Court is to keep in mind the parameters like gravity of the offence, probability of the petitioner fleeing from justice and possibility of tampering with the ongoing investigation.

Weighing the facts and circumstances of the present case on the anvil of the law settled, this Court is of the opinion that both the petitioners do not qualify for extraordinary relief of anticipatory bail under Section 438 Cr.P.C.

Resultantly, the petition being devoid of any merit is hereby dismissed.

July 06, 2022
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(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No