

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

**CRM-M-29492-2022**

Date of Decision: 19.12.2022

Balwinder Singh

..... Petitioner

Versus

State of Punjab

.....Respondent

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

Present: Mr. A.S. Khosa, Advocate, for the petitioner.

Mr. Harpreet Singh, Addl. Advocate General, Punjab.

**Rajesh Bhardwaj, J. (ORAL)**

Prayer in the present third petition is for the grant of regular bail to the petitioner in a case FIR No.59 dated 01.05.2019, registered under Sections 304-B, 34 IPC, at Police Station Arniwala, District Fazilka.

As per the facts of the case the present complaint was lodged by the father of the deceased, wherein, it was alleged that he had three children, out of which his daughter solemnized Court marriage with Balwinder Singh i.e. the petitioner five years ago. They were blessed with a son, who was 3½ years of age. As his daughter was married with Balwinder Singh against the wishes of his family, they snapped ties with her, but from last two years, they re-established the relations with the intervention of the relatives and started visiting each other. His daughter had told him and his wife, that her husband Balwinder Singh, her mother-in-law Sumitra @ Mito and father-in-law Kundan were greedy by nature and they taunted her every time by demanding dowry. She was compelled either to bring gold ornaments or Rs.5-7 lacs in cash from her parents. He told his daughter that he has already spent enough amount on her education and hence, he was not

in a position to give dowry. His daughter became upset on his response and thereafter, she time and again used to complain about the unreasonable behaviour of her husband and her in-laws. On 01.05.2019, the complainant got a call from Ex-Sarpanch that his daughter put herself on fire and she was badly burnt. On hearing the same, he rushed to her matrimonial home, where, he found her lying dead. It was complained that her husband and her parents-in-law had killed his daughter on account of demand of dowry by burning her. Request was made to take legal action against the culprits. On the basis of the complaint, a formal FIR was lodged and the investigation commenced. The postmortem of the dead body was conducted and on completion of all the formalities, the challan was presented against all the three accused. The petitioner was arrested on 24.07.2019. He approached the Court of learned Sessions Judge, Fazilka for grant of bail, who, after hearing the parties, declined the same vide order dated 09.03.2020. Aggrieved by the same, the petitioner has approached this Court praying for grant of bail. His earlier two petitions were declined by this Court and hence, this is the third petition.

It has been vehemently contended by learned counsel for the petitioner that the petitioner is behind bars from the last more than three years. He submits that it was the love marriage of the petitioner with the deceased and thus, there was no question of any demand of dowry. He submits that after the marriage, they were blessed with a son, who is at present 5½ years of age. He submits that the complainant i.e. the father of the deceased has intentionally lodged the FIR to implicate all the members of the family and thus, the parents of the petitioner were also roped in by the complainant, however, both of them have been granted bail by this Court.

He has submitted that in all these years, the prosecution could examine only 5 witnesses. He submits that the unnatural death of the deceased had taken place after 5 years of marriage and there is nothing on record to show that there was any type of dispute whatsoever between the husband and wife on account of demand of dowry. He submits that in the facts and circumstances of the present case, presumption under Section 113-B of the Evidence Act is not attracted and thus, the prosecution of the petitioner is nothing but an abuse of the process of the Court. He submits that even otherwise, the material witnesses already stand examined and the petitioner is not in a position to influence the prosecution witnesses. He further submits that the petitioner has no criminal antecedents as he has never been involved in any other case besides the present case.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that the petitioner is the husband of the deceased and unnatural death of the deceased had taken place only after five years of marriage as she was being harassed by the petitioner and his family members for demand of dowry. He has submitted that presumption under Section 113-B of the Evidence Act is attracted. He further submits that out of 15 prosecution witnesses, 5 witnesses have been examined. He submits that as per the instructions provided to him, the petitioner has no criminal antecedents.

Heard.

Admittedly, the petitioner is the husband of the deceased, who is behind bars since 24.07.2019. The prosecution since then examined only 5 prosecution witnesses out of total 15 witnesses. As submitted before this Court, it was the love marriage. Whether the presumption under Section

113-B of the Evidence Act is attracted or not, is subject matter of the trial. However, it is apparent that the material witnesses already stand examined and thus, the petitioner is obviously not in a position to influence the prosecution witnesses. There is nothing on record to show that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial Court only after appreciation of the complete evidence led by both the parties. 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 sufficiently 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.

**19.12.2022**

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Whether Speaking/Reasoned :

Whether Reportable :

**(RAJESH BHARDWAJ)**

**JUDGE**

Yes/No

Yes/No