

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

CRM-M-29784-2022

Date of Decision: 01.12.2022

Seema

..... Petitioner

Versus

UT Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. T.P.S. Tung, Advocate, for the petitioner.

Mr. P.S. Paul, Addl. PP, UT, Chandigarh.

Mr. Varun Veer Chauhan, 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.0139 dated 17.11.2021 registered under sections 304-B, 34 I.P.C at Police Station, Mauli Jagran, District Chandigarh.

As per facts of the case, present FIR was lodged by Picha Pillai son of Sh. Ryar. The sum and substance of the allegations in the FIR is that he had three children out of which his eldest daughter Natharsha @ Natasha was aged about 23 years. His daughter performed love marriage with her free will about 3 years ago with Ravi Sharma. They were blessed with a son who is aged about 1 ½ years. After marriage her husband and in-laws started harassing his daughter on account of bringing insufficient dowry. He tried his level best to resolve the dispute, however, failed to do so. His daughter was asked to bring money from her parental home and on refusal she was beaten. On 16.11.2021 at about 11 PM his daughter got a phone call and she left the parental home by saying that she has been called by her husband

Ravi. At about 12 AM Ravi's mother i.e. the present petitioner and sister

came to his house and told that Natasha had locked herself in the room and she was not opening the door. They reached the matrimonial home and he found his daughter hanging from the fan. FIR was lodged to take legal action against the culprits. The investigation commenced and the petitioner was arrested on 17.11.2021. The petitioner approached learned Addl. Sessions Judge, Chandigarh for grant of bail, however, after hearing the parties, the same was declined vide order dated 07.06.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He submits that petitioner is the mother-in-law of the deceased and she has been named only being the family member of the husband of the deceased. He submits that when the deceased after coming to the matrimonial home on 16.11.2021 locked herself inside the room, it was her mother-in-law i.e. the petitioner who went to the house of the complainant for informing him about the same. Counsel submits that though the deceased committed suicide within 7 years of the marriage, however, there is no evidence of causing any harassment to the deceased by the petitioner on account of demand of dowry. He submits that except for the bald allegations the basic ingredient of the offence under Section 304-B IPC is totally missing from the reading of the allegations. Counsel submits that no presumption under Section 113-B of the Evidence Act would be attracted against the petitioner in this case. He further submits that in all there are three accused in the present case, out of which co-accused Jyoti has already been granted bail by this Court vide order dated 17.05.2022 and other accused i.e. the husband of the deceased is behind bars. Counsel submits

that petitioner has no criminal antecedents and hence the petitioner deserves to be granted bail.

Learned counsel for the complainant has vehemently opposed the submissions made by learned counsel for the petitioner and submits that as per the postmortem report of the deceased, it should be a case for the offence under Section 302 IPC and not only under Section 304-B IPC.

On the other hand, learned State counsel has also opposed the submissions made by counsel for petitioner and submits that there are specific allegations against the petitioner. He further submits that the unnatural death has taken place within 7 years of the marriage and once the unnatural death has taken place within 7 years of marriage on account of demand of dowry the presumption under Section 113-B of Evidence Act is straightway attracted. He further submits that out of total 17 prosecution witnesses, 3 witnesses have been examined.

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 seven years of marriage. However, petitioner is the mother-in-law of the deceased. As per allegations in the FIR itself on the day of death, the petitioner had informed the complainant about the deceased having locked herself inside the room. After the occurrence the in-laws had shifted the deceased to the hospital. Whether in the facts and circumstances of the case the presumption under Section 113-B of Evidence Act is attracted or not would be subject to the outcome of the trial to be concluded by the trial Court. However, at this stage, there is nothing on record to show that petitioner has any criminal antecedents. Co-accused Jyoti has already been granted bail by this Court

vide order dated 17.05.2022. Out of total 17 prosecution witnesses, 3 witnesses have already been examined. 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.

01.12.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No