

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(227)

CRM-M-28178-2020

Date of Decision: 10.02.2022

Jaspal Singh

--Petitioner

Versus

State of Punjab

--Respondent

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

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

Ms. Sakshi Bakshi, A.A.G., Punjab.

Mr. Munish Khangwal, 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.303 dated 8.11.2019 under sections 306, 34, 201 I.P.C (Section 304-B I.P.C was added later on), registered at Police Station, Dera Bassi, District S.A.S Nagar.

As per factual matrix, the FIR in question was lodged by Gurmukh Singh son of Gurbachan Singh. It was alleged that he had one son namely Gurpreet Singh aged about 21 years and elder to him is the daughter namely Harmanpreet Kaur aged about 25 years. Marriage of his daughter Harmanpreet Kaur was solemnized about 3 years back with Jaspal Singh i.e. the present petitioner. After the marriage they were blessed with a daughter aged about 2 years. His son-in-law, Kuram and Kurmani used to harass her daughter and she used to remain upset. His son-in-law neither allowed his

daughter to talk to them nor allowed her to meet them. He neither allowed her to purchase a mobile phone nor allowed her to keep the mobile phone given by them. In the morning at 6.30 AM he received a call from some neighbor of his daughter Harmanpreet Kaur that his daughter along with her daughter Jaspreet Kaur had poured kerosine oil and committed suicide. They reached the matrimonial home of their daughter and found the dead bodies of his daughter and grand daughter. FIR was lodged to take legal action against the culprits.

Petitioner being the husband of the deceased was arrested on 8.11.2019. He approached learned Addl. Sessions Judge, S.A.S Nagar Mohali for grant of bail, however, after hearing the parties, the same was declined vide order dated 9.9.2020. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that from the bare perusal of the FIR no case under Section 304-B I.P.C is made out against the petitioner. Counsel submits that though an unnatural death has taken place within 7 years of the marriage, however, the same is not on account of harassment or demand of dowry. Counsel submits that the only allegation in the FIR is that petitioner being husband never allowed the deceased to keep the mobile phone and further never allowed her to meet her parents. It is submitted that primarily the allegations in the FIR are not sufficient even to make out a case under Section 304-B I.P.C as the alleged harassment is not on account of the demand of dowry. It is submitted that thereafter in a deliberated manner a supplementary statement of complainant was recorded and the allegations pertaining to demand of dowry were clandestinely incorporated. Counsel submits that the complainant has

already been examined by the Trial Court as PW-1, however, a complete reading of his deposition before the Trial Court shows that though he has not been declared hostile, however, he has not even supported the case of the prosecution in toto. It is submitted that in all there are 3 accused and rest of the 2 accused i.e. parents of the petitioner are already on bail. Counsel submits that the petitioner is behind bars for the last more than 2 years and as the material witness already stands examined he deserves to be enlarged on bail.

Learned counsel for the complainant has opposed the submissions made by counsel for the petitioner tooth and nail and submits that there are categorical allegations against the petitioner and he cannot wriggle out of the same. Counsel submits that though the allegations regarding demand of dowry in the FIR were not in the initial version of the complainant, however, in the supplementary statement it was clarified that complainant was nervous on the date of occurrence and hence the allegations to that effect could not be incorporated. Counsel further submits that petitioner is husband of the deceased and the offence under Section 304-B is duly made out. It is further submitted that in the present case there are two deaths i.e. Daughter of the complainant as also his minor grand daughter.

On the other hand, learned State counsel has submitted that the Trial Court is seized of the matter and out of the total 20 prosecution witnesses only two have been examined so far. It is further submitted that the complainant has supported the case of the prosecution.

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

Admittedly, petitioner is the husband of deceased and he is behind bars since 8.11.2019. The death of his wife and daughter took place within 7 years of the marriage. In the initial version of the complainant no allegation regarding the harassment on account of dowry was made out, though, the same was found to have been alleged in the supplementary statement recorded on the next day. The complainant, who is author of the FIR has already been examined as PW-1. A perusal of his deposition shows that he has been confronted with his statement recorded under Section 161 Cr.P.C on so many accounts. 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 304-B I.P.C is made out against the petitioner or not would be evaluated only upon conclusion of the trial. Rest of the two accused in the case are already on bail. 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

10.02.2022

lucky

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