

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(215)

CRM-M-34925-2021

Date of Decision: 14.02.2022

Kuldeep Singh @ Deepa

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. G.S. Nahel, Advocate for the petitioner.

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

RAJESH BHARDWAJ.J (Oral)

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.47 dated 15.3.2021 under sections 302, 34 I.P.C (Section 306 I.P.C was added later on and Section 302, 34 I.P.C were deleted), registered at Police Station, Lehra, District Sangrur.

As per factual matrix, the FIR in question was lodged by Gora singh son of Kaka Singh. It was alleged that they were two brothers and one sister namely Kuljit Kaur @ Mamta @ Mammu (deceased), who was married about 10 years ago to Kuldeep Singh (petitioner). It was alleged that his sister suspected that her husband Kuldeep Singh had illicit relations with some other woman and due to that there was dispute between the husband and wife. They used to beat his sister and a number of efforts were made to to persuade the petitioner/accused to mend his ways. On 14.3.2021 he received 3 consecutive calls from Kuldeep Singh to intimate that his sister Kuljit Kaur @ Mamta is very much harassing them and that they would kill her. Thereafter, the complainant again received a call from Kuldeep Singh,

who informed that his sister was not keeping well. He along with 5/6 persons went to village Ladal. On reaching there Kuldip Singh informed them that his sister was not keeping good health and hence she had been administered some injections. On seeing her sister he found that she was lying on cot and had already expired. It was alleged that Kuldip Singh and his family members used to beat his sister due to which she died. A request was made to take legal action against the culprits.

The investigation commenced and the petitioner was arrested on 17.3.2021. He approached learned Addl. Sessions Judge, Sangrur for grant of bail, however, after hearing the parties, the same was declined vide order dated 28.05.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the present FIR is false and frivolous and no offence is made out against the petitioner. It is submitted that the offence under Section 302 I.P.C was deleted and section 306 was added. Counsel submits that admittedly petitioner was married with the deceased about 10 years ago and there was no dispute as alleged in the FIR. It is submitted that from the bare reading of the allegations levelled in the FIR, no instigation under Section 107 I.P.C on the part of the petitioner is found and hence the offence under Section 306 I.P.C is not made out against the petitioner. Counsel submits that as per the post mortem report the cause of death is due to Organophosphorus compound present in the body of the deceased. It is further submitted that deceased used to remain under depression and hence due to the same she consumed poison in the absence of her in-laws. It is further submitted that bonafide of the petitioner is proved by the fact that petitioner himself

informed the family members of the deceased and called them. Counsel has placed on record the testimony of the complainant recorded before the Trial Court. He submits that the complainant deposed before the Trial Court that there was no dispute between the petitioner and his sister. His sister Kuljit Kaur used to remain under depression for the last about 2/3 years due to poverty. It is further deposed that Kuldip Singh neither harassed nor beaten up his sister and her in-laws never abetted the suicide of his sister. As the complainant did not support the case of the prosecution, he was declared hostile. Counsel submits that turning hostile of the complainant further proves the innocence of the petitioner and his further incarceration is unwarranted.

On the other hand, learned State counsel has has vehemently opposed the contentions raised by learned counsel for the petitioner. He submits that the petitioner is the husband of the deceased and there are specific allegations against him in the FIR. She has further submitted that the cause of death is duly established that the Organophosphorus compound was found present in the body of the deceased, which was the cause of death. However, State counsel candidly acknowledges the fact that out of 19 prosecution witnesses only 4 have been examined including the complainant, who has not 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 17.3.2021. The marriage in question took place about 10 years ago. Though, originally the FIR was registered under Section 302 I.P.C, however, later the offence under Section 302 I.P.C was deleted and

now the petitioner is being prosecuted under Section 306 I.P.C. Whether the offence under Section 306 I.P.C is made out or not is purely a matter to be appreciated on the basis of evidence led before the Trial Court. This Court would refrain itself from commenting on the merits of the case. Admittedly, out of 19 prosecution witnesses only 4 have been examined including the complainant, who has not supported the case of the prosecution. The conclusion of the trial would take sufficiently long time.

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

14.02.2022

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