

NAGWANT SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. H.S.Brar, Senior Advocate with
Mr. Sumeetpal Singh Sidhu, Advocate and
Mr. Parmbir Singh Sunny, Advocate for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

VIVEK PURI,J. (ORAL)

Custody certificate of the petitioner has been circulated today and the same is taken on record.

Nagwant Singh-petitioner is seeking regular bail in the case bearing FIR No.48 dated 15.05.2022 under Sections 306 & 34 IPC, registered at Police Station Sekhwan, District Batala.

Briefly, as per the allegations of the prosecution, the marriage of Davinder Kaur-deceased aged about 49 years took place about 10 years ago with the petitioner. The first wife of the petitioner had died and was having two sons and one daughter from the first marriage. Both the boys from the first marriage were opposed to the marriage of the deceased with the petitioner and had been raising disputes. The petitioner was having illicit relationship with a lady and deceased had been asking him to refrain from doing so. On 14.05.2022, the deceased had consumed some poisonous substance and was admitted in Abrol Hospital, Gurdaspur. She made an oral statement before Baljinder Singh-complainant that the petitioner along with sons were harassing and troubling her

and on that score she had consumed the poisonous substance.

Learned Senior counsel contends that in fact, it was a second marriage of the petitioner as well as the deceased which was solemnized about 14 years prior to the occurrence. The two sons from the first marriage of the petitioner have been found to be innocent and the deceased was 49 years old. The false allegations with regard to illicit relationship and raising of dispute by the sons have been mentioned in the FIR. No complaint was submitted either by the deceased or anyone from her parental family at any forum during her lifetime. The petitioner had himself taken the deceased to the hospital. The fact of recording of oral dying declaration is not free from doubt as the deceased was put on ventilator in the hospital and her condition was critical. Furthermore, her blood pressure was unrecordable. The petitioner is in custody for a period of 04 months and 12 days and is not involved in any other case. The investigation of the case is complete and challan has been presented. Till date no witness has been examined.

Learned State counsel has opposed the bail application on the score that as per the report of the chemical examiner, Aluminum Phosphide has been detected in the viscera.

Be that as it may the marriage of the deceased was solemnized about 14 years prior to the occurrence. There is nothing to suggest that during the lifetime of the deceased any complaint was submitted at any forum either by her or any member of her parental family. The sons of the petitioner against whom the allegations have also been levelled have been found to be innocent during the course of investigation. The genuineness of the oral dying declaration alleged to have been made by the deceased before his brother in the hospital will be a debatable and moot point during the course of trial looking into her health

presented and till date no witness has been examined. The conclusion of trial is likely to take sometime. No fruitful purpose will be served by detaining the petitioner in further custody. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

27.09.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No