

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(240)

CRM-M-33293-2022
Date of decision:- 09.09.2022

Manoj Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Jasneet Mehra, Advocate for
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana
for State-respondent.

Mr. Neeraj Yadav, Advocate
for the complainant.

...

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in case FIR No.151 dated 15.04.2017, registered for offences under Sections 120-B, 304-B, 328 and 498-A of the Indian Penal Code, 1860 (for short "IPC"), however, later on Section 406, IPC was added, at Police Station Pataudi, District Gurugram, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of Sonu that his sister, Monika, was married to Manoj Kumar, present petitioner, on 29.04.2013. Despite giving sufficient dowry at the time of marriage, Manoj Kumar and his family members were not satisfied and had been harassing his sister and making demands. She was

physically assaulted and she confided her maltreatment to her sister and parents. The family members of the complainant and other respectable persons from the village tried to mediate, but their efforts went in vain. On the fateful day, she was physically assaulted and forcibly administered some poisonous substance and she expired.

Counsel for the petitioner has urged that there is no history of any written complaint by the deceased or her family regarding demand of dowry or maltreatment. He submits that the petitioner is a soldier in the Indian Army with an unblemished past and has been happily married to the deceased for four years and they have been blessed with a daughter. Counsel submits that false allegations have been levelled against the petitioner.

Opposing the petition, learned State counsel upon instructions from ASI, Raj Kumar, has referred to the status report filed by way of an affidavit dated 22.08.2022 of Assistant Commissioner of Police, Pataudi, District Gurugram and has submitted that the petitioner was on leave from the Army and was present at the matrimonial home when the deceased was subjected to cruelty and forced to consume poison, leading to her death.

Counsel for the complainant has referred to the Inquest Report and has submitted that there are injury marks on the body of the deceased. It has been urged that instead of joining the investigation, the petitioner has embroiled the Investigating Agency in litigation, which ended with order dated 04.07.2022, Annexure R-2, passed by this Court, whereby the order of the learned Additional Sessions Judge directing the Army authorities to hand over the custody of the accused-petitioner to the Investigating Officer has been upheld.

Counsel for the parties have been heard and their submissions have been considered.

There are categoric allegations against the petitioner and his family members of harassing the deceased, who admittedly had an unnatural death within four years of marriage on account of demand for dowry. Hon'ble Supreme Court in ***Parvati Devi Versus State of Bihar Now State of Jharkhand and others, 2022 (1) R.C.R. (Criminal) 509*** has held that the four pre-requisites of Section 304-B, IPC are as under:-

“(i) that death of a woman must have been caused by burns or bodily injury or occurred otherwise than under normal circumstance;

(ii) that such a death must have occurred within a period of seven years of her marriage;

(iii) that the woman must have been subjected to cruelty or harassment at the hands of her husband, soon before her death; and

(iv) that such a cruelty or harassment must have been for or related to any demand for dowry.”

Prima facie, ingredients of offence under Section 304-B, IPC are satisfied. Subsequent conduct of the petitioner and attempts by him to evade joining the investigation for more than five years and, further, hampering the process, also casts suspicion on his role. Petitioner was on leave and at his matrimonial home when his wife expired. After taking her to a hospital, the petitioner immediately went back, joined his Unit and did not cooperate with the Investigating Agency despite the fact that his parents were arrested.

It has been observed that there is a general tendency in the rural households to suppress incidents of harassment and maltreatment of married ladies on account of dowry demand, which explains the absence of any written complaint, although it has been specifically alleged in the FIR that the family of the complainant and respectables intervened, but the accused did not pay heed to them.

Keeping in view the totality of the facts and circumstances, nature of allegations levelled and the gravity of offence, this Court is not inclined to exercise the discretionary power to grant anticipatory bail to the petitioner.

Petition is dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

09.09.2022
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No