

**216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-34722-2022

Date of Decision: 08.09.2022

Somwati

..... Petitioner

Versus

State of UT, Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Ravinder Rana, Advocate, for the petitioner.

Mr. Sumit Jain, Addl. PP, UT, Chandigarh.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.239 dated 17.9.2019, registered under Section 304-B IPC (with alternate charge of Section 302 IPC framed by the learned trial Court), at Police Station Sector-31, Chandigarh.

As per the facts of the case, the present FIR was lodged by Vijender i.e. the brother of the deceased. It was alleged that his younger sister Pinki aged 20 years was married with Gian Singh on 14.10.2018 as per Hindu rites. Sufficient dowry was given in the marriage as per their capacity. However, after the marriage her husband and other family members were not satisfied with the same and hence, she was being harassed by her in-laws. It was alleged that his sister used to tell about the harassment caused to her by her in-laws. On 17.9.2019, Gian Singh i.e. the husband of the deceased conveyed his mother on phone that her daughter is no more and called at Sector-32, Hospital. After reaching there, they found that his sister died due to poisoning. The FIR was lodged to take legal action against the accused. On lodging the FIR, the investigation

commenced. The husband of the deceased was arrested, however, during the course of investigation, the investigating agency did not prefer to seek the custody of the petitioner. The challan was duly presented. Thereafter, the petitioner was arrested on 3.4.2022. The petitioner approached the learned Additional Sessions Judge, Chandigarh for grant of bail, who after hearing the parties, declined the same vide its order dated 13.7.2022. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition for grant of regular bail.

Learned counsel for the petitioner vehemently contends that as a general tendency the petitioner and the other family members were roped in the present FIR. He submits that though the deceased died within one year of her marriage, however, the petitioner who is the grandmother-in-law has no role whatsoever in causing harassment and cruelty to the deceased. He submits that the petitioner was living separately and was having separate kitchen from the deceased and her husband and thus, there was no occasion for her to harass the deceased for demand of dowry as alleged in the FIR. He has submitted that the husband of the deceased was arrested and granted bail by this Court vide order dated 16.2.2022 passed in CRM-M-49493-2021. He has submitted that from the facts and circumstances of the case, it is clear that the present FIR was lodged on 17.9.2019 and the petitioner was arrested after a long gap of about 2½ years i.e. on 3.4.2022 is enough to conclude that the complicity of the petitioner was not free from doubts and hence, the investigating agency did not prefer to seek the custody of the petitioner. He has submitted that the petitioner is 70 years old woman and has no criminal antecedents. He submits that in the overall facts and

circumstances, the petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and submitted that unnatural death has taken place within one year of marriage. The petitioner has been named alongwith other accused in the FIR. However, he candidly acknowledges that the investigating agency sought the custody of only husband of the deceased, who had been granted regular bail by this Court on 16.5.2022. He submits that the presumption under Section 113-B Evidence Act is attributed in the case, hence, no case for bail made out against the petitioner.

Heard.

The petitioner is admittedly grandmother-in-law of the deceased, who is 70 years old. She was living separately from the deceased and her husband. The petitioner was taken into custody on 3.4.2022 i.e. virtually after about 2½ years of the lodging of the FIR. There is nothing on record showing that the petitioner has criminal antecedents or she has tampered with the evidence during the on going trial.

The veracity of the allegations would be evaluated by the trial Court only after conclusion of the trial. In the overall facts and circumstances of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

08.09.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned

:

Yes/No

Whether Reportable

:

Yes/No