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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35610-2022

Date of Decision: August 10, 2022

Gursewak Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Manish Kumar Singla, Advocate
for the petitioner.

Mr.R.S.Sidhu, AAG, Punjab.

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RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.15, dated 19.02.2021, under Sections 304-B, 34 IPC, registered at Police Station Mulepur, District Fatehgarh Sahib.

As per the facts of the case, the present FIR was lodged by Chhotta Ram s/o Surjan Singh, i.e. father of deceased-Pinki Kaur. It was alleged that he married his daughter Pinki Kaur, aged about 25 years, with Gursewak Singh s/o Karnail Singh, i.e. the petitioner, on 25.01.2020 as per Sikh rites and rituals. He gave sufficient dowry as per his status and as per the demand of her in-laws. However, soon after the marriage, husband of his daughter and her in-laws started harassing her for bringing less dowry. She was being taunted that their son is employed in a Government job and the dowry given was not as per their status. In November 2020, she informed her father, i.e. complainant about harassment being caused to her.

She pleaded to take her back to the parental home on which he and his wife went to the matrimonial home of his daughter Pinki Kaur and she told them that she was being harassed daily on account of demand of dowry. For the sake of saving the marriage of their daughter, they kept on tolerating, however, on 18.02.2021, they gave many telephonic calls to their daughter but there was no reply to the same. However, at about 12 O' clock, they came to know that their daughter had committed suicide by hanging herself. They immediately rushed to her matrimonial home and found the dead body of his daughter lying on the ground in the courtyard. There were many marks on her neck. It was alleged that death of his daughter had taken place on account of harassment caused to her for demand of dowry and hence, FIR be registered and legal action be taken against the culprits. Resultantly, the FIR was lodged and the investigation commenced.

Apprehending his arrest, the petitioner approached the Court of learned Additional Sessions Judge, Fatehgarh Sahib, praying for grant of anticipatory bail, however, after hearing the parties, the same was declined vide its order dated 28.07.2022.

Aggrieved by the same, the petitioner has approached this Court praying for grant of anticipatory bail.

It has been contended by counsel for the petitioner that the petitioner has been falsely and frivolously implicated in this case. He submits that there was no harassment or cruelty caused to the deceased, as alleged in the FIR. He submits that after the death, suicide note of the deceased was recovered and from reading of the same, it is apparent that no allegation whatsoever has been levelled against the petitioner. He submits

that FIR in question has been lodged by father of the deceased after due

deliberations only in order to rope in all the family members of in-laws of the deceased. He has submitted that no presumption under Section 113-B of the Evidence Act is attracted in the facts and circumstances of the case. He has submitted that the petitioner has no criminal antecedents and besides this, the co-accused of the petitioner have been granted interim relief by this Court vide separate orders dated 08.07.2022 and 15.07.2022. So the petitioner is entitled to be released on anticipatory bail.

Learned State counsel has opposed the prayer made by learned counsel for the petitioner and has stated that a young bride has lost her life within a period of one year due to harassment caused by the petitioner and his family members to the deceased on account of bringing less dowry and the presumption under Section 113-B of the Evidence Act is straightway attracted in the present case. As such the petitioner is not entitled to any relief.

Heard.

Admittedly, the marriage of the petitioner took place with the deceased on 25.01.2020. The death by hanging had taken place on 18.02.2021. There are specific allegations of causing harassment to the deceased on account of bringing less dowry. Apparently, the unnatural death of the deceased has taken place within seven years of the marriage on account of alleged demand of dowry. The investigation is at threshold. The petitioner before this Court is the husband of the deceased. He cannot claim parity with the co-accused, who have been granted interim anticipatory bail by this Court. For the consideration of anticipatory bail, the statutory provisions of Sections 438(1) Cr.P.C. are very clear which prescribes the factors like gravity of the offence, antecedents of the petitioner, probability

of the petitioner fleeing from justice, chances of tampering with the evidence are to be taken into consideration. In Gurbaksh Singh Sibbia and others vs State of Punjab, AIR 1980 SC 1632, Hon'ble the Supreme Court of India has laid down that the Courts while dealing with the anticipatory bail has to strike the balance between the personal liberty and the overall interest of the society. However, the overall interest of the society will prevail upon the personal liberty of the individual.

Keeping in view the facts and circumstances of the present case, it is apparent that the case in hand is of heinous offence. Granting anticipatory bail to the petitioner, at this stage, in all its probability, would prejudice the ongoing investigation.

Weighing the facts and circumstances of the present case on the anvil of statutory parameters and the law settled, this Court finds that the petitioner does not qualify for invoking the extraordinary jurisdiction by this Court in his favour. Resultantly, the present petition being devoid of any merit is, hereby, dismissed.

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

August 10, 2022
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(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No