

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-36646 of 2022
Date of decision:09.09.2022

Rajpal

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ajay Vijarania, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.195 dated 01.09.2021 registered under Sections 302, 328, 304-B, 34 of Indian Penal Code, 1860 at Police Station Bhattu Kalan, District Fatehabad.

Case of the prosecution is that FIR has been registered on the statement of Subhash Chander on the allegation that marriage of his 22 year old daughter, Kavita was solemnized with Mange Ram on 25.02.2019 and a son was born out of the wedlock. Despite the fact that he had given dowry as per his capacity, the in-laws' family was not satisfied and they were raising a demand for car. Mange Ram, husband of Kavita, Rajpal (present petitioner) and Saroj, parents-in-law, Mukesh, Aruna and Sonu, sisters-in-law, kept on harassing her and turned her out of her matrimonial home.

Panchayat was convened twice and Kavita was sent back. On 31.08.2021, Rajpal called Gaurav, son of the complainant and informed him that Kavita has consumed poison and has been taken to a hospital. Complainant rushed to the hospital and when he met his daughter, who told him that she was forcibly administered poison due to non-fulfillment of demand for car. She, unfortunately, died and request has been made to take action against the accused.

Counsel for the petitioner submits that first petition (CRM-M-4400 of 2022) preferred by the petitioner was withdrawn on 19.04.2022 as the prosecution evidence had not started. By referring to the testimonies of Subhash (witness No.1) and Gaurav (witness No.2), which have been appended with the petition as Annexures P-1 and P-2, respectively, counsel urges that both the star prosecution witnesses have not supported the allegations levelled in the FIR and rather, it is their deposition that deceased was suffering from depression and consumed poison by mistake under the impression that it was some medicine. Counsel submits that two more witnesses, i.e. mother and uncle of the deceased have also been examined on 06.09.2022, who have been declared hostile. He submits that the petitioner, who is a middle aged person and is in custody since 12.09.2021, deserves to be enlarged on bail.

Per contra, upon instructions ASI Jayvir, State counsel has opposed the petition and has submitted that there are specific allegations against the petitioner, who has been named in the FIR. By referring to Section 304-B IPC, State counsel contends that all the necessary ingredients

of the offence are satisfied. As per her instructions, 04 out of total 25 prosecution witnesses have been examined.

Having considered the submissions made by counsel for the parties, but without advertng to the merits or demerits of the arguments addressed, this Court is *prima facie* of the view that culpability of the petitioner in the crime would remain matter of debate before the Trial Court. Considering the fact that petitioner is in custody for almost one year and the trial is not likely to conclude in the near future, this Court is inclined to accept the prayer made by the petitioner.

Petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

September 09, 2022

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes