

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42550 of 2021 (O&M)

Date of decision : 22.08.2022

Ashok Kumar Sharma

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. N. K. Ganga, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

This is a petition under Section 439 Cr. P.C. for grant of regular bail to the petitioner in case FIR No. 169 dated 22.06.2020 under Sections 304-B, 34 of the IPC, registered at Police Station Civil Line Sirsa, District Sirsa.

As per facts of the case, the FIR in question was lodged by Kailash Sharma, who is the father of the deceased. He alleged that his daughter Mahima was married with Sahil son of Ashok Kumar on 17.04.2017. Later on, she was blessed with a son who is 02 years old. He alleged that after the marriage, his daughter-Mahima was being harassed by the petitioner (father-in-law), mother-in-law namely, Sarita, brother of Sarita namely, Raman Sharma and the wife of Raman Sharma, namely Deepika Sharma. He alleged that on account of demand of dowry all the accused were harassing his daughter. Thereafter, having been fed up with the harassment, she committed suicide on 22.06.2020. On the basis of his statement, the FIR was lodged and the investigation commenced.

On the conclusion of the investigation, challan was presented against two of the accused i.e., the petitioner (father-in-law) and his wife-Sarita (mother-

in-law). Petitioner was arrested on 14.07.2020. He approached learned Additional Sessions Judge, Sirsa for grant of bail who after hearing both the parties dismissed the same vide order dated 30.09.2021. Aggrieved by the same, the petitioner has come to this Court for the grant of regular bail.

Learned counsel for the petitioner submits that the petitioner is behind bars since 14.07.2020. He is father-in-law of the deceased. He submits that the petitioner was falsely and frivolously implicated in this case. He has also submitted that the trial Court has time and again passed the orders for summoning the complainant-Kailash Sharma. Even the bailable warrants were also issued against him, however, despite that he did not appear. He has placed on record the zimini orders dated 10.01.2022, 07.02.2022, 07.03.2022 and 28.03.2022 passed by learned trial Court. The Court had issued the bailable warrants for securing the presence of the complainant-Kailash Sharma and has also directed that the SHO concerned to do the needful. This shows that the complainant is intentionally not appearing before the Court just to prolong the custody of petitioner.

Learned counsel for the petitioner has submitted that during the investigation the blood samples of the petitioner and his wife were taken and the same were sent to FSL for DNA test. He submits that now the DNA report is received and same is negative. He has further submitted that the case is at the stage of evidence. He also submits that the co-accused i.e. mother-in-law of the deceased has already been granted bail by this Court vide order dated 23.09.2021 passed in CRM-M-33763 of 2020. He contends that in the facts and circumstances, the petitioner deserves to be enlarged on bail.

Learned counsel for the complainant has vehemently opposed the contention raised by learned counsel for the petitioner and submits that alternative charge under Section 302 IPC is also framed against the petitioner in this case. He has submitted that the deceased died 3 years after marriage in her in-laws home and

both the accused i.e. the petitioner and his wife are the main accused in the case.

Learned State counsel has submitted that the complainant is missing from last about three years and hence the State is facing difficulty in producing him. He has also submitted that out of 25 prosecution witnesses, 01 witness has been examined. He admits that the co-accused of petitioner i.e. Sarita, mother-in-law of petitioner has already been allowed bail by this Court vide order dated 23.09.2021 passed in CRM-M-33763 of 2020.

I have heard learned counsel for the parties and perused the record.

Apparently the DNA report is also received and the petitioner is behind bars since 14.07.2020. The complainant is not appearing before the trial Court for his examination despite numerous opportunities having been granted and the trial is not progressing just because of his non-appearance. The trial would take some time for its final conclusion and no purpose would be served by keeping the petitioner in custody for such a long time. Without commenting upon the merits of the case and keeping in view the overall facts and circumstances of the case and the custody period undergone by the petitioner, the Court is of the opinion that learned counsel for the petitioner has succeeded in making out a case for bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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

22.08.2022
rekha sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned: *yes/no*
whether reportable: *yes/no*