

**104+225 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-45533-2021 (O&M)

Date of decision : 05.04.2022

Rajbir

..... Petitioner

versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Kapil Aggarwal, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

Mr. Harjot Singh Bedi, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

CRM-11040-2022

Application is allowed as prayed.

Annexure P-6 is taken on record.

CRM-M-45533-2021

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.195 dated 02.07.2021, under Sections 306, 34 of the Indian Penal Code, registered at Police Station Uchana, District Jind.

As per factual matrix of the case, the present FIR was lodged by Subhash Chandra son of Ratan Singh. The allegations in the FIR are that the complainant married his daughter Kavita aged 37 years old, about 18 years ago with Rajbir i.e. the petitioner. His daughter number of times complained about Rajbir having illicit relations with one Suman. The families made an endeavor to make Rajbir understand, however, the same had no effect on Rajbir. The anger between the husband and the wife kept on increasing. However, there was no effect on Rajbir. Having fed up with the

attitude of the husband Rajbir his daughter Kavita committed suicide by consuming poison on 30th June, 2021. The FIR was lodged with a request to take legal action against the culprits. On the commencement of the investigation, the petitioner was arrested on 23rd July, 2021. The statements of the witnesses were recorded. The petitioner approached the Court of learned Additional Sessions Judge, Jind with a prayer for grant of bail, who after hearing counsel for the parties, declined the same vide order dated 23.09.2021. Aggrieved by the same, petitioner has approached this Court for grant of regular bail by way of the present petition.

Learned counsel for the petitioner has contended that the petitioner was falsely implicated in this case. He submits that the marriage in question took place on 22nd June, 2001. However, the deceased had misconception regarding the petitioner having some illicit relations which was totally without any basis. He submits that the petitioner had tried his best to settle the dispute with the family. However the unfortunate incident took place for which the petitioner cannot be held responsible. He submits that in the facts and circumstances of the case, the petitioner cannot be said to have instigated offence under Section 107 IPC and thus, no offence under Section 306 IPC is made out. To buttress his arguments, he has placed on record the copy of testimonies of the material witnesses i.e. complainant, who is father of the deceased; Pardeep, brother of the deceased and Vinay Kumar, cousin of the deceased who have been examined as PW-1 to PW-3 respectively. He has submitted that all the material witnesses have not supported the case of the prosecution and thus, on the request of learned Public Prosecutor, they have been declared hostile. He submits that as the material witnesses have not supported the case of the prosecution, the false implication of the petitioner is writ large. Even otherwise, after examining

the material witnesses, the petitioner cannot be held responsible for tampering with the evidence before the trial Court. Hence, he submits that the petitioner be enlarged on bail.

Learned counsel for the complainant has submitted that the main concern of the complainant is the future of the children of their deceased daughter.

Learned State counsel, however, opposes the submissions made by counsel for the petitioner. He has submitted that the allegations in the FIR were specific regarding the petitioner having instigated the suicide by the deceased. He however, candidly acknowledge that the material witnesses i.e. PW-1 to PW-3 have not supported the case of the prosecution. He further submits that in all, there are 22 prosecution witnesses, out of which, 03 witnesses have been examined so far.

I have heard counsel for the parties and perused the records.

The marriage in question took place about 21 years ago. The suicide took place on 30th June, 2021. There is no suicide note as per the case of the prosecution. However, the material witnesses i.e. father of the deceased, brother of the deceased and cousin of the deceased have not supported the case of the prosecution. This Court would not go into the veracity of the allegations at this stage as the same is within the domain of the trial Court to be inferred on the basis of the evidence produced before it.

The trial of the case will take sufficient long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. However, confining to the prayer made for the grant of bail, this Court is convinced that the counsel for the petitioner succeeds in making out a case for grant of regular bail. 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.

(RAJESH BHARDWAJ)
JUDGE

05.04.2022
m.sharma

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No