

**108+231 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-41804-2022 (O&M)
Date of Decision: 30.11.2022

Mohd. Aslam @ Aslam Ansari Petitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Parminder Singh, Advocate, for the petitioner.
Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

CRM-45930-2022

Allowed as prayed for.

Present petition be treated as second petition.

CRM-45933-2022

Allowed as prayed for. Annexures P-5 to P-7 are taken on record.

Main case

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.529 dated 18.08.2021, registered under Section 306 IPC, at Police Station Chandni Bagh, Panipat.

As per factual matrix of the case, the present FIR was lodged by the mother of deceased. It was alleged that her husband expired in the year 2003 and she solemnized the marriage of her daughter i.e. deceased with Mohd Aslam i.e. the petitioner. After marriage, her daughter and son-in-law used to live in a rented accommodation in Sector 11-12, Panipat. Number of times, her daughter used to complaint about her husband, who used to consume liquor and thereafter used to abuse her and beat her up

after drinking. On 16.08.2021, her daughter again informed her telephonically that her husband abused her and after giving beatings he shunted her out of the house. On 17.08.2021 at about 12:00 p.m., someone informed her telephonically that husband of her daughter caused beating to her and her daughter is lying unconscious. On receipt of the same, the complainant reached alongwith her family members and found that her daughter had consumed rat poison. She was rushed to PGIMS, Rohtak, where, she was declared dead. The complaint was lodged that her daughter had ended her life due to the maltreatment of her son-in-law i.e. the petitioner. On the basis of the complaint, FIR was lodged and investigation commenced. The Investigating Agency completed legal formalities like recording of statements and conducting of the postmortem of the dead body. The petitioner was arrested on 29.11.2021. He approached the Court of learned Additional Sessions Judge, Panipat for grant of bail, who, after hearing the parties, declined the same vide order dated 23.08.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been contended by learned counsel for the petitioner that admittedly the deceased was the wife of the petitioner and their marriage was solemnized on 31.05.2021. He submits that the petitioner is suffering from Tuberculosis and Hepatitis-B. He submits that the relationship between the husband and wife was cordial and there is no history as such regarding the allegations made in the FIR. He submits that the petitioner, who was suffering from Tuberculosis and on the date of occurrence had gone to the hospital for his medical treatment and in his absence, his wife committed suicide. He submits that from the bare reading of the allegations

made in the FIR, offence under Section 306 IPC read with Section 107 IPC is not made out. He submits that no instigation or abetment has been made by the petitioner. He submits that as per the law settled, the offence of alleged abetment should be related with the act committed by the deceased, however, in the facts and circumstances of the case, the same is not made out and thus, the petitioner is being prosecuted in this case only being the husband of the deceased. He submits that the petitioner has no criminal antecedents and hence, in the overall facts and circumstances, the petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel on instructions from ASI Rajbir has submitted that the petitioner is husband of the deceased and there are specific allegations regarding his complicity in abetting suicide by the deceased. He has submitted that the complainant i.e. the mother of the deceased has given details regarding maltreatment given by the petitioner to the deceased, on account of which, the deceased had taken extreme step in ending her life. He submits that out of total 15 prosecution witnesses, 3 witnesses including the mother and two brother of the deceased have already been examined. He has submitted that as per the record, the petitioner is not involved in any other case except the present case.

Heard.

Admittedly, the petitioner is the husband of the deceased. The allegations made against him are that it is because of his maltreatment, the deceased committed suicide. Out of total 15 prosecution witnesses, 3 material witnesses have already been examined. The petitioner is behind bars since 29.11.2021. When all the material witnesses already stand examined, the petitioner is not in a position to influence the prosecution

witnesses. It is also argued by learned counsel for the petitioner that the petitioner is suffering from Tuberculosis. Whether offence under Section 306 IPC read with 107 IPC is made out or not would be evaluated only after conclusion of the trial. There is nothing on record showing that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial Court only after appreciation of the complete evidence led by both the parties. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

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.

30.11.2022

sharmila

Whether Speaking/Reasoned :

Whether Reportable :

(RAJESH BHARDWAJ)

JUDGE

Yes/No

Yes/No