

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(212)

CRM-M-47840-2021

Date of Decision: 17.05.2022

Sunil Kumar

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Nikhil K. Chopra, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C praying for grant of regular bail to the petitioner in case FIR No.0027 dated 11.3.2021 registered under section 304-B I.P.C (alternatively section 306 IPC) at Police Station, Sector 20 District Panchkula.

As per facts of the case, present FIR was lodged by Rakesh Punia son of Jagat Singh. The sum and substance of the allegations in the FIR is that his younger sister Kavita was married on 31.5.2020 according to Hindu rites with Sunil i.e. the present petitioner. Sufficient amount of dowry and articles were given in the marriage, however, after the marriage her husband i.e. the petitioner and in-laws were not satisfied with the same and on account of bringing insufficient dowry his sister Kavita was being harassed repeatedly. His father and uncle Balbir Singh went to the matrimonial home of Kavita about a month ago and tried to convince the in-laws of Kavita, however, his sister committed suicide on 10.3.2021. FIR was lodged to take legal action against the culprits.

The investigation commenced and the petitioner was arrested on 13.3.2021. Initially two accused were named in the FIR i.e. petitioner

and his mother, however, during investigation no evidence was found against the mother and hence she was kept in column no.2. The petitioner approached learned Addl. Sessions Judge, Panchkula for grant of bail, however, after hearing the parties, the same was declined vide order dated 21.10.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that it was the second marriage of both the petitioner and the deceased. Counsel further submits that petitioner has two children from the earlier marriage and out of them a 10 years old son is surviving. Counsel submits that petitioner, who is plying a taxi has done his best to look after the deceased wife and family members. It is submitted that the occurrence took place in his absence when he was not at home. Counsel submits that the deceased was divorced from her earlier marriage and a copy of the decree of divorce has also been placed on record. It is submitted that though the unnatural death of the deceased took place within seven years of the marriage, however, there is nothing on record against the petitioner except the bald allegations. Counsel submits that in the facts and circumstances of the case the presumption under Section 113-B of the Evidence Act is also not attracted. He submits that the mother of the petitioner was also implicated, however, she was found innocent. Counsel submits that as on date the investigation already stands completed and after framing of charges the learned Trial Court has already recorded the evidence of two material witnesses i.e. the complainant and other relative of the deceased. Even the chief examination of the third witness has also been

recorded. Counsel submits that petitioner has no criminal antecedents. It is submitted that as the material witnesses already stand examined, there cannot be any apprehension on the part of the petitioner to hamper the course of a free and fair trial and hence the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for petitioner and submits that unnatural death has taken place within seven years of marriage and there are specific allegations of harassment against the petitioner. He further submits that out of the total 14 prosecution witnesses both the material witnesses have already been examined. It is also submitted that the presumption under Section 113-B of Evidence Act is attracted against the petitioner. He, however, candidly acknowledges that this was the second marriage of the deceased.

I have heard learned counsel for the parties at length and have gone through the record carefully.

Apparently, the deceased died an unnatural death within seven years of marriage. There is nothing on record to show that petitioner has criminal antecedents. Whether in the facts and circumstances of the case the offence under sections 304-B IPC is made out or not would be subject to the outcome of the trial to be concluded by the Trial Court. The veracity of the allegations levelled in the FIR would be assessed only after conclusion of the trial. In the overall facts and circumstances of the case, this Court finds that counsel for petitioner succeeds in making out a case for grant of bail to the petitioner.

In the totality of facts and circumstances and without making

enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

17.05.2022

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