

**In the High Court for the States of Punjab and
Haryana at Chandigarh**

Date of Decision: *November 29, 2022*

1. CRM-M-43567-2022 (O&M)

Sukhwinder Kaur *... Petitioner*

Versus

State of Punjab *... Respondent*

2. CRM-M-43812-2022

Balbir Singh and another *... Petitioners*

Versus

State of Punjab *... Respondent*

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Narinder Kumar Vadehra, Advocate,
for the petitioners.

Mr. Amit Shukla, AAG, Punjab.

Mr. Vipin Mahajan, Advocate,
for the complainant.

Vivek Puri, J.

The petitioners are seeking anticipatory bail in the case bearing FIR No. 12, dated 11.03.2022, under Sections 304-B, 34 of the Indian Penal Code, registered at Police Station Tibber, District Gurdaspur.

As both the afore-mentioned petitions have arisen out of the same FIR, both the petitions are being decided by this common order.

Briefly, the FIR has been registered on the basis of the statement of Harjit Singh alleging that the marriage of his daughter Narinder Kaur was solemnized on 07.12.2021 with Gobind Singh and sufficient dowry articles and jewellery were given at the time of marriage. Gobind Singh, the husband, Balbir Singh, the father-in-law and Piar Kaur, the mother-in-law had been harassing Narinder Kaur and raising demand of dowry, car and also used to beat her. Sukhwinder Kaur, petitioner, who is the sister-in-law was also residing in the parental house for a period of one month prior to the occurrence and had been harassing her. On 10.03.2022, the complainant received a telephonic message that her daughter is vomiting. On reaching the matrimonial house of Narinder Kaur, she was shifted to hospital where she died on account of consumption of poisonous substance.

Learned counsel for the petitioners contend that on completion of the investigation, the challan was presented against Gobind Singh only, the husband of the deceased. Sukhwinder Kaur, Balbir Singh and Piar Kaur, the petitioners, are the sister-in-law, father-in-law and mother-in-law of the deceased, respectively, and they

have been summoned by the learned trial Court under Section 319 Cr.P.C. as they were found innocent during the course of the investigation. The marriage of Sukhwinder Kaur, petitioner, was solemnized about 9 years prior to the occurrence and is having two children. The petitioners had no interference in the matrimonial life of the deceased and her husband. Although, the petition under Section 438 Cr.P.C. instituted by Sukhwinder Kaur, petitioner, vide CRM-M-16411-2022 has been dismissed by this Court in terms of the order dated 13.05.2022, but there is a significant change of circumstances which justify filing of the present subsequent petition under Section 438 Cr.P.C. on her behalf. The petitioners have been found innocent during the course of investigation. Moreover, Balbir Singh and Piar Kaur, petitioners have not instituted any petition under Section 438 Cr.P.C. in this Court at the earlier instance and both of them are aged more than 65 years.

On the contrary, learned State counsel and the learned counsel for the complainant have opposed the bail application on the score that the earlier application for anticipatory bail filed on behalf of Sukhwinder Kaur, petitioner, has been dismissed on merits. The name of the petitioners

has been specifically and categorically mentioned in the FIR. Sukhwinder Kaur, petitioner, though married, is residing in her parental house for a period of one month prior to the occurrence.

Learned counsel for the complainant has further submitted that besides the petitioner, the deceased was having two sisters-in-law, who are also married and no allegation has been levelled against them. The husband of Sukhwinder Kaur, petitioner, had gone abroad about two months prior to the occurrence and on that score, she had been residing in her parental house and also maltreating and harassing the deceased. The petitioners have been declared to be innocent without assigning specific reason. There is a categoric oral dying declaration of the deceased and same has also been videographed.

In the peculiar circumstances of the case, it is not necessary to delve much on the aspect with regard to maintainability of the subsequent application under Section 438 Cr.P.C. on account of changed circumstances. The material on record is indicative of the fact that there are serious allegations levelled against the petitioners. Merely because the petitioners have been found to be innocent during the course of the investigation

and have been summoned under Section 319 Cr.P.C. cannot be construed as a sole circumstance to extend the concession of anticipatory bail to them. The anticipatory bail can be granted in the event the extra ordinary circumstances are made out. It is significant to note that the death has occurred within a period of about three months from the date of marriage in the house of in-laws of the deceased. As per the report of chemical examiner, paracetamol was found positive in liver, spleen, kidneys and blood and cause of death opined to be paracetamol poisoning which is sufficient to cause death in the ordinary course of nature. Furthermore, the statement of the complainant recorded during the course of trial indicates that the deceased had made an oral dying declaration before Palwinder Singh, brother-in-law of the complainant and Sardar Singh, Nambardar in which she disclosed that the petitioner along with her husband had administered 25 tablets of paracetamol to her and even Sardar Singh had conducted videography thereof.

The material on record is indicative of the fact that Sukhwinder Kaur, petitioner had been residing in her parental house for a period of one month prior to the occurrence. All the three

petitioners have been specifically and categorically named in the FIR. The categoric allegations have also been imputed against them by the deceased in her oral dying declaration which has also been videographed. The death has occurred otherwise than under normal circumstances within a period of about three months from the marriage. As such, no extra ordinary circumstances are made out to extend the concession of pre-arrest bail to any of the petitioners.

Both the afore-mentioned petitions are dismissed, accordingly.

November 29, 2022
vkd

[Vivek Puri]
Judge

Whether reasonable / speaking : Yes / No
Whether reportable : Yes / No