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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-44754-2022

Date of Decision: December 15, 2022

Sunil

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Pradeep Duhan, Advocate
for the petitioner.

Mr.Kirpal Singh Thakur, AAG, Haryana.

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RAJESH BHARDWAJ, J.(ORAL)

This is the second petition filed under Section 439 Cr.P.C. praying for grant of regular bail to the petitioner in case FIR No.0220, dated 27.06.2020, under Sections 304-B, 498-A and 506 IPC, registered at Police Station Rohtak Sadar, District Rohtak, Haryana.

Adumbrated facts of the case are that complaint was lodged by brother of the deceased, namely, Rohit. It was alleged that his sister Reena was married with Sunil, i.e. the petitioner about seven years ago. Sunil used to harass his sister and also used to beat her as he was having illicit relations with another lady. Her deceased sister's brother-in-law Karambir and sister-in-law Suman usually interfered in the matrimonial life of his sister. He tried to make his brother-in-law understand the consequences of his illicit relationships, however he did not mend his ways. In-laws of his sister used to torture and pass lewd comments to her for demand of dowry and they used to give beatings to his sister. It was alleged that on account of the same, his sister has been killed by her in-laws by hatching a conspiracy.

Request was made to lodge FIR and to take the strict legal action against the culprits.

On the basis of complaint, formal FIR was lodged and investigation was commenced. During investigation, statements of the witnesses were recorded, the post mortem was conducted and the challan was presented against petitioner Sunil. The petitioner was arrested on 28.06.2020. He approached the Court of learned Special Judge-cum-Additional Sessions Judge, Rohtak, praying for grant of bail, however, after hearing both the sides, the same was declined vide order dated 17.08.2022. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

It has been vehemently contended by counsel for the petitioner that petitioner has been falsely implicated in this case by brother of his wife. He submits that marriage of the petitioner took place with the deceased about seven years ago and there was no dispute whatsoever in all these years between them. There is nothing on record to show that there was any complaint earlier to this. He submits that the deceased was a patient of depression and she was undergoing treatment for the same. He further submits that a bare reading of the allegations in the FIR shows that there are general allegations regarding demand of dowry, however, allegation pertaining to illicit relations of the petitioner with some other woman is also false. He has submitted that prosecution has failed to adduce any evidence regarding allegations made in the FIR and thus offence under Section 304-B IPC would not be attracted in this case. To buttress his argument, he has submitted that mother of the deceased has been examined by the prosecution

deposed before the trial Court that husband of her daughter and his family members kept her daughter nicely. He submits that on the request of public prosecutor, she was declared hostile. He submits that once the prosecution failed to adduce any evidence regarding harassment caused to the deceased on account of demand of dowry, the prosecution of the petitioner is a futile exercise for offence under Section 304-B IPC. He has submitted that even otherwise the material witnesses already stands examined by the trial Court and the petitioner is behind bars from the last about 2½ years. He has further submitted that petitioner has no criminal antecedents and thus in the overall facts and circumstances, he deserves to be granted bail.

Learned State counsel on the other hand has opposed the submissions made by counsel for the petitioner. He has submitted that there are specific allegations against the petitioner regarding harassment caused to the deceased on account of demand of dowry. He has submitted that admittedly the deceased has died an unnatural death within seven years of the marriage and thus, presumption under Section 113-B Indian Evidence Act would be straightway attracted. He has submitted, on instructions from ASI Rekha, that out of eight prosecution witnesses, six have been examined including mother and brother of the deceased, who is author of the FIR. It is further submitted that brother of the deceased has supported case of the prosecution. It is further submitted that petitioner is not involved in any other case.

Heard.

Relationship between the petitioner and the deceased is not in dispute. Marriage of the petitioner with the deceased had taken place about seven years ago. Petitioner is behind bars since 28.06.2020. Mother of the

deceased has not supported the case of the prosecution. Out of 18 prosecution witnesses, six material witnesses already stands examined. There is nothing on record to show that petitioner has any criminal antecedents. Even otherwise, when material witnesses already stands examined, the petitioner will not be in a position to influence the prosecution witnesses. Veracity of the allegations would be assessed only after conclusion of the trial on appreciation of the evidence on record. However, this Court would refrain itself from commenting anything on merits of the case, at this stage. In the overall facts and circumstances of the case, this Court finds that counsel for the petitioner succeeds in making out a case for grant of bail to the petitioner.

In the totality of facts and circumstances of the case and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to the satisfaction of trial Court/Duty Magistrate concerned. Nothing stated herein shall be treated as an expression of opinion on the merits of the case.

December 15, 2022
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(RAJESH BHARDWAJ)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |