

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

CRM-M-49173-2021 (O&M)

Date of Decision: 04.04.2022

JOGINDER SINGH

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Amit Arora, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, AAG, Punjab.

VIVEK PURI, J.(ORAL)

CRM-12765-2022

Prayer in this application is for placing on record statements of
the prosecution witnesses as Annexures P-3 to P-5.

For the reasons stated in the application, the same is allowed.

Annexures P-3 to P-5 are taken on record, subject to all just exceptions.

Registry is directed to annex the same at appropriate place.

Application is disposed of.

CRM-M-49173-2021

Through present petition, the petitioner is seeking regular bail
in case bearing FIR No. 46 dated 02.07.2019 under Sections 306 and 34 IPC
(offence under Section 306 IPC stands deleted and offence under Section
302 IPC stands added), registered at Police Station Khalra, District Tarn
Taran.

Custody certificate as well as short reply by way of affidavit of
Tarsem Masih, Deputy Superintendent of Police, Sub Division Valtaha
Camt at Bhikhiwind, District Tarn Taran, have been placed on record.

Briefly, the FIR has been registered on the basis of the statement of Sukhdev Singh, the father of the deceased alleging that the marriage of his daughter, namely, Hina was solemnized with Ranjit Singh @ Gora, who is the son of the petitioner, about 8 years prior to the occurrence. The husband of the deceased has gone to Gujarat about 03 months prior to the occurrence for doing labour work. The petitioner and his another son, namely, Rinka Singh used to harass the deceased. On 01.07.2019, the deceased committed suicide by hanging herself.

Learned counsel for the petitioner contends that initially the case was registered under Section 306 IPC and subsequently, the said offence has been deleted and the offence under Section 302 IPC has been added. The petitioner alongwith his other son, namely, Rinka Singh has been arraigned as accused. The offence under Section 302 IPC has been added subsequently on the basis of the medical opinion without any other incriminating evidence. Furthermore, during the course of trial, the complainant, who is the father of the deceased, has been examined and he has not supported the prosecution version. He has categorically and specifically deposed during the course of trial that the deceased was not having any dispute with her husband or other family members and she was residing happily in the house of her in-laws. He has also deposed to the effect that neither the husband nor brother-in-law nor father-in-law of the deceased ever tortured her. There is nothing to suggest that deceased or any member of parental family has submitted any complaint against the petitioner at any forum during her life time. The petitioner is in custody for a period of 01 year, 03 months and 11 days and only 03 out of 21 witnesses have been examined so far.

On the contrary, learned State counsel has argued that though initially the case was registered under Section 306 IPC but the offence was enhanced to 302 IPC on the basis of the medical opinion. As per the medical opinion, the cause of death was asphyxia as a result of manual strangulation or throttling as a result of injuries No. 1 to 6, which were sufficient in an ordinary course of nature to cause death. However, it has been conceded that there is no oral or other direct evidence to indicate the commission of murder except the fact that the occurrence took place in the house of the petitioner where the deceased was residing.

It is significant to note that the complainant i.e. the father of the deceased, has not supported the prosecution version, the petitioner is in custody for a period of 01 years, 03 months and 11 days and only 03 out of 21 witnesses have been examined so far. Furthermore, it will be a debatable matter as to whether the offence falls under Section 306 or 302 IPC. No complaint was submitted at any forum with respect to harassment meted out to deceased during her life time. There is no eye witness to the occurrence and only circumstance that weighs at the moment against the petitioner is to the effect that the occurrence took place in his house.

In these set of circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner.

Accordingly, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate.

04.04.2022

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(VIVEK PURI)**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No