

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(217)

CRM-M-50588-2021

Date of Decision: 18.05.2022

Raj Kumar

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Abhilaksh Grover, 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.0356 dated 31.10.2020 registered under sections 304-B, 34, 498-A I.P.C at Police Station, Gadpuri, District Palwal.

As per facts of the case, present FIR was lodged by the complainant. The sum and substance of the allegations in the FIR is that the complainant solemnized the marriage of his daughter Sudha with Raj Kumar on 6.6.2013. After the marriage the husband Raj Kumar and his family members being not satisfied with the dowry used to taunt and harass his daughter for bringing insufficient dowry and for not giving birth to a male child. His daughter was given beatings repeatedly. He alleged that prior to the birth of second daughter on 22.6.2015 her in-laws made an attempt to kill his daughter by hanging, however, on raising the noise the neighbors reached and she could be saved. About 2/3 days ago from the occurrence, his daughter informed him telephonically that Raj Kumar, his father and mother were harassing her for the reason that she could not become mother of a son. In order to fulfill their illegal greed they had murdered his

daughter on the instigation of Sarpanch Babu Ram and hanged her. Hence, the present FIR was lodged to take legal action against the culprits.

The investigation commenced and out of the total 4 accused, 3 were found innocent during investigation and hence the challan was presented only qua the present petitioner. He was arrested on 2.11.2020. The petitioner approached learned Addl. Sessions Judge, Palwal for grant of bail, however, after hearing the parties, the same was declined vide order dated 20.9.2021. 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 initially the petitioner and his family members were booked for the offence under Section 304-B, however, on realising that the death of the petitioner had taken place after 7 years of marriage, the same was converted into Section 306 IPC. Counsel further submits that the allegations in the FIR are totally concocted. He submits that there was no harassment or cruelty caused by the petitioner on account of demand of dowry or the birth of the daughters. He submits that taking into consideration the facts and circumstances of the case the basic ingredient of section 306 IPC read with section 107 IPC is not made out. Counsel submits that petitioner has an impeccable record as he has no criminal antecedents. Counsel submits that as on date the investigation already stands completed and charges have been framed and hence the petitioner is not in a position to hamper with the investigation and deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for petitioner and submits that petitioner is the

husband of the deceased and there are specific allegations in the FIR of the harassment caused to the deceased. He submits that during investigation postmortem of the deceased was conducted and it was established that the death has taken place by asphyxia due to hanging. State counsel submits that complainant in this case has already been examined before the learned Trial Court and he has duly supported the case of the prosecution.

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

Apparently, the relationship between the petitioner and the deceased is not disputed. Initially the FIR was lodged for the offence under Section 304-B IPC, however, at the time of framing of charge the Trial Court framed the charge under Sections 306 and 498-A IPC and hence the petitioner is being prosecuted under Sections 306 and 498-A IPC. Whether the ingredient of statutory provision under Section 107 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 any observation on merits, present petition is allowed. Petitioner be 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

18.05.2022

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