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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50769-2021

Date of Decision: 11.07.2022

HUSAN

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr.Abhinay Sharma, Advocate and
Ms. Nevadita Malik, Advocate for the petitioner.

Mr. Zorawar Singh Chauhan, DAG Haryana.

* * *

VIVEK PURI, J. (ORAL)

Custody certificate has been taken on record.

The petitioner is seeking regular bail in case bearing FIR No. 83 dated 25.03.2021 under Sections 147, 149, 304-B and 498-A IPC, registered at Police Station Kaithal Sadar, District Kaithal.

Briefly, as per the allegations of the prosecution, the marriage of the petitioner was solemnized with Pinky, the daughter of the complainant on 21.06.2019. There are allegations with regard to demand of dowry articles and maltreatment meted out to the deceased on that score. It has been alleged that on 24.02.2021, the complainant had received a telephonic message that the petitioner and other family members are planning and threatening to kill the deceased. On 25.02.2021, a telephonic message was received by the complainant and it was informed that the deceased has consumed some poisonous substance. The death has occurred on account of consumption of some poisonous substance by the deceased.

Learned counsel for the petitioner contends that at the first instance, Subhash, the father of the deceased had got recorded the statement, Annexure P-3 on 25.02.2021 wherein it was mentioned that the deceased had consumed some medicine lying at home for pain. No one was at fault and he did not want to proceed against any one. The said statement is silent with regard to demand of any articles of dowry or maltreatment meted out to the deceased on that score. The deceased had mistakenly consumed some medicine which resulted in her death. She was shifted to Aarogyam Hospital, Kurukshetra for treatment. The FIR has been lodged after a delay of 30 days after deliberations. All the persons named in the FIR except the petitioner and his father, have been found innocent. The father of the petitioner has been released on anticipatory bail by the Court of Sessions.

Learned State counsel has opposed the bail application on the score that in the FIR, it has been specifically mentioned that the petitioner along with the co-accused had colluded with the Police and the thumb impressions of the complainant were procured on the blank paper. Furthermore, 2 injuries were also found at the time of post-mortem examination.

Faced with this situation, learned counsel for the petitioner has pointed out that as per the hospital record, Annexure P-2, it has been mentioned that the abrasions could be on account of insertion of "Right 1JV Line during the period of hospitalization for management purpose". Furthermore, there was no abrasion on either side of neck at the time of admission and the markings are not of any wound.

Custody certificate indicates that the petitioner is in custody for a period of 1 year and 13 days and is not involved in any other case. In the

first version of the case which was unfolded in the statement, Annexure P-2, there is no allegation with regard to maltreatment given to the deceased or demand of dowry. The FIR has been lodged after a delay of 30 days. The genuineness of two versions is to be adjudicated during the course of trial. The controversy as to whether the deceased was subjected to cruelty or harassment on account of demand of dowry will be a debatable and moot point during trial. The investigation of the case is complete, challan has already been presented and the charges have also been framed. The conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

11.07.2022

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No