

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

Date of Decision: September 19, 2022

1. CRM-M-50446-2019 (O&M)

Ankita Bhatia ... *Petitioner*

Versus

State of Punjab ... *Respondent*

2. CRM-M-1207-2020 (O&M)

Pranav Bhatia ... *Petitioner*

Versus

State of Punjab ... *Respondent*

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. S.S. Majithia, Advocate,
for the petitioner(s).

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. Ashok Bhardwaj, Advocate,
for the complainant.

Vivek Puri, J.

Both the aforesaid petitions i.e. CRM-M-50446-2019 and CRM-M-1207-2020 under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.') have been instituted by the petitioners i.e. Ankita Bhatia and Pranav Bhatia, respectively, seeking anticipatory bail in the case bearing FIR No. 178, dated 04.11.2019, under Section 304B of the Indian Penal Code (for short

`IPC'), registered at Police Station Shimlapuri, District Ludhiana.

The FIR has been registered at the instance of Pradeep Bhatia alleging that the marriage of his daughter Palak Bhatia was solemnized with Pranav Bhatia-petitioner about two years prior to the occurrence. The deceased was being tortured physically and mentally by the family members of her in-laws and they used to call her ugly and work shirker. Upon coming to know about the same, the complainant along with other family members visited the in-laws family of his daughter in order to reason out with them. The in-laws of the daughter of the complainant accepted their mistake and assured not to repeat the same. However, they did not desist from harassing the deceased. Subsequently, the deceased became pregnant and the family members of her in-laws were making her to consume some substance in a packet which they referred to as `swah' and also got something administered to her through injections by a private nurse. The complainant had discussed the matter with Pranav Bhatia-petitioner, but he replied that the complainant should not interfere in his family matters. The deceased had visited her parental house in Morinda in connection with ceremony of `godbharai' and the complainant became worried on seeing the health and

complexion of his daughter. The complainant requested the accused to provide proper treatment to his daughter and also left his younger daughter to take care of the deceased in her matrimonial house. The father-in-law and the mother-in-law of the deceased snatched the mobile phone belonging to the complainant's younger daughter and continued mal-treatment being given to the deceased and on account thereof her health further deteriorated. She became unconscious and was admitted in DMC, Ludhiana. On coming to know about the same, the complainant rushed to DMC Hospital where he came to know that the baby in the womb of the deceased has died and even the deceased was struggling for her life. The deceased did not survive and died on 03.11.2019. It has been alleged that the deceased has been killed by the family members of her in-laws in connivance with each other.

Pranav Bhatia, petitioner in CRM-M-1207-2020 is the husband and Ankita Bhatia, petitioner in CRM-M-50446-2019 is the sister-in-law of the deceased.

In CRM-M-50446-2019 instituted by Ankita Bhatia, on 28.11.2019, following order was passed:-

“The learned counsel contends that the petitioner is the married sister-in-law of the deceased, who was married prior to the

marriage of the deceased and ever since her marriage she is residing in her own matrimonial home.

Notice of motion for 11.2.2020.

At this stage, Mr. Ashok Bhardwaj, Advocate has today put in appearance on behalf of the complainant and has filed Vakalatnama, which is taken on record.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to her furnishing personal bonds and surety bonds to the satisfaction of Arresting/ Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.”

In CRM-M-1207-2020 instituted by Pranav Bhatia, on 05.02.2020, following order was passed:-

“This is a petition that has been filed for grant of anticipatory bail to the petitioner in FIR No. 0178 dated 04.11.2019 under Section 304B IPC registered at Police Station Shimlapuri, Ludhiana.

Learned counsel for the petitioner would contend that the cause of death as reflected in the post-mortem report is jaundice, septicaemia and ultimately a cardiac arrest. It is also argued that she had stones in her kidney, apart from the fact that she had acute jaundice as would

be evident from the report dated 29.10.2019.

Learned counsel for the complainant would argue that these documents, which have now subsequently been brought on record, are forged documents.

Be that as it may, arrest of the petitioner is stayed limited for a period of four weeks to enable him to join investigation, subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C. In case any of the documents that are produced before the Investigating Officer is found to be false or forged, interim protection allowed to him will stand automatically revoked.

Adjourned to 06.03.2020.”

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioners contend that in pursuance of the interim directions, both the petitioners have joined the investigation. Seema Bhatia, the mother-in-law of the deceased, has been granted pre-arrest bail in terms of the order dated 12.12.2019 passed

in CRM-M-51990-2019. There is no allegation with regard to demand of dowry in the FIR. Furthermore, the death in the instant case was natural on account of some complications during pregnancy. Rajesh Kumar Bhatia, the father-in-law of the deceased has died subsequent to the registration of the FIR.

On the instructions of ASI Rajinder Kumar, the learned State counsel submits that both the petitioners have joined the investigation and their custodial interrogation is not required.

Learned counsel for the complainant has opposed the bail application on the score that the allegations with regard to demand of dowry have emerged in the statement of the sister of the complainant. Furthermore, the death has occurred within a period of about two years from the marriage and the deceased was pregnant at that point of time. The custodial interrogation is required for the proper investigation of the case. Furthermore, the interim protection granted to the petitioners cannot be termed to be a circumstance to confirm the interim bail.

As per the post mortem examination, the cause of death in the instant case is as following:-

“The cause of death in this case in our opinion is as a result of cardio pulmonary

arrest secondary to jaundice and septicaemia which is sufficient to cause death in the an ordinary course of nature.”

Moreover, the perusal of the FIR indicates that there is no allegation with regard to demand of dowry attributed to the petitioners. It has been alleged that the allegations with regard to demand of dowry have emerged in the statement of the sister of the deceased which has been recorded subsequent to the registration of the FIR. There are allegations to the effect that the deceased was being administered some substance which is referred to as ‘swah’ in the FIR, but it cannot be concluded at this stage that “Swah” which was being administered was a poisonous substance or something in the nature of some harmless “parsad” on account of some religious or spiritual belief. In the order dated 12.12.2019 vide which the mother-in-law of the deceased has been granted anticipatory bail, it has also been observed that the photographs annexed with the application stated to have been taken at the time of ceremony of ‘godbharai’ do not reveal anything suspicious as regards the physical or mental health of the deceased.

In the peculiar circumstances of the case, it will be a debateable and moot point during the course of trial as to whether it is a case of ‘dowry death’ or ‘natural

death'. Furthermore, there is a categoric assertion made by the learned State counsel that the petitioners have joined the investigation and their custodial interrogation is not required. Moreover, the mother-in-law of the deceased has been granted anticipatory bail in this case. As such, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to both the petitioners.

Accordingly, the order dated 28.11.2019 passed in CRM-M-50446-2019 pertaining to Ankita Bhatia, petitioner and order dated 05.02.2020 passed in CRM-M-1207-2020 pertaining to Pranav Bhatia, petitioner, are made absolute.

Both the aforesaid petitions are allowed.

September 19, 2022
vk

(Vivek Puri)
Judge

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