

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(207)

CRM-M-397-2023

Date of Decision: 13.01.2023

Bijender

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Aman Pal, Advocate for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.11 dated 9.1.2021 under sections 304-B, 34 I.P.C (Section 498-A IPC added later on), registered at Police Station, Matlauda, District Panipat.

As per factual matrix, a complaint was lodged by one Vishal @ Amit Kumar, wherein it was alleged that they were two brother sister and younger to him was his sister Priyanka. His father got married Priyanka with Bijender i.e. the present petitioner in the year 2013. It was alleged that soon after the marriage his sister was being harassed by his brother-in-law Bijender for demand of dowry. On account of the same there used to be quarrel between husband and wife. His sister used to inform them about the harassment she was facing in the matrimonial home. She told them that Bijender used to demand a car and his father was not in a position to meet the same. It was also alleged that his sister used to be beaten on refusal of the same. On 8.1.2021 at about 10.30 PM he received a phone call from the mobile of his brother-in-law Bijender, who threatened him that he was

going to leave his sister at home or he would kill him. He informed his uncle and his uncle informed the same to Rajender i.e. Ex-Sarpanch. Rajender informed them that his sister had already passed away. On getting the information they reached the matrimonial home of his sister and found her lying dead. It was suspected that his sister Priyanka had been killed by Bijender on account of demand of dowry. A request was made to take legal action against the culprits.

On the basis of the complaint, present FIR was lodged and investigation commenced. The postmortem of the dead body was conducted. On completion of investigation challan was presented against petitioner Bijender, however, his parents were found innocent and were kept in column no.2. Petitioner was arrested on 23.9.2021. He approached learned Addl. Sessions Judge, Panipat for grant of bail, however, after hearing the parties, the same was declined vide order dated 9.12.2022. Aggrieved by the same petitioner has approached this court for grant of bail by way of filing CRM-M-36532-2021, which was dismissed by this court vide order dated 6.4.2022.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case and his prosecution under Section 304-B IPC is totally against the statutory provisions of law. It is submitted that admittedly the marriage in question took place in the year 2013 and the alleged occurrence took place on 9.1.2021. It is submitted that the unnatural death of the deceased took place beyond the statutory period of 7 years and thus the petitioner could not have been prosecuted for the offence under Section 304-B IPC. Counsel submits that the deceased was a simple graduate at the time of her marriage, however, after the marriage

with the cooperation of the petitioner she completed her Post Graduation and B.Ed degree as well. It is submitted that the allegations pertaining to demand of dowry are totally without any evidence. It is further submitted that after the marriage the couple was blessed with two children, who are in the custody of grand parents. Counsel submits that the petitioner got suspicious about the behavior of the deceased while she was talking on phone with some unknown person and on account of the same there arose a dispute between husband and wife. Petitioner brought this fact to the knowledge of his brother-in-law also. It is submitted that when the deceased was asked about the same by her relatives she could not tolerate the embarrassing situation and thus committed suicide by hanging. It is further submitted that by no stretch of imagination the offence alleged falls under section 304-B IPC as the deceased committed suicide not on account of harassment due to demand of dowry. It is submitted that it was the petitioner only who took her to the hospital after he found her hanging, however, she could not be survived as she had already died. Counsel submits that petitioner has no criminal antecedents and in the overall facts and circumstances of the case he deserves to be granted bail.

On the other hand, learned State counsel has submitted that there are specific allegations against the petitioner. He submits that petitioner had already approached this court for grant of bail, however, this court had dismissed the same vide order dated 6.4.2022. It is submitted that there are specific allegations regarding harassment of the deceased on account of demand of dowry. He further submits that out of the total 17 prosecution witnesses 2 already stand examined. It is submitted that petitioner has no criminal antecedents.

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

Admittedly, the marriage of the petitioner and deceased took place in the year 2013. The unnatural death by way of hanging had taken place on 9.1.2021. After completion of investigation challan was presented only qua the petitioner, however, his parents were found innocent. Whether the offence under section 304-B IPC is made out or not would be a subject matter of trial which will be concluded after appreciation of evidence by the learned Trial Court. Petitioner is behind bars for the last about two years. There is nothing on record to show that petitioner has any criminal antecedents.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

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

13.01.2023

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