

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**218-1****CRM-M No.1623 of 2023****Date of Decision : 16.11.2023**

Jagsir Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.S. Dhaliwal, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab.

Mr. Vivek Aggarwal, Advocate for
Mr. J.P.S. Sidhu, Advocate for the complainant.**ALKA SARIN, J. (Oral)**

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.72 dated 23.04.2022 under Sections 304-B and 34 of the Indian Penal Code, 1860 registered at Police Station Sardulgarh, District Mansa.

2. FIR in the present case was lodged on the statement of Mahinder Kaur, mother of the deceased, wherein she alleged that her daughter who was 26 years of age was married to Tarsem Singh son of the petitioner herein for the last 03 years. On 23.04.2022 they received a call at about 05.30 am that her daughter was ill and that they were taking her to Sirsa and told them to come there. She along with her son reached Sardulgarh and got a call that her daughter had died. She saw the dead body and injury marks on the neck. It was alleged that for this the husband of her

daughter, namely, Tarsem Singh, father-in-law, mother-in-law and brother-in-law, namely, Prem Kumar were responsible. It was further alleged that the dowry was given as per their financial status, however, her daughter was being harassed for bringing less dowry and the family wanted more.

3. Learned counsel for the petitioner would contend that co-accused, namely, Prem Kumar, has since been granted the concession of regular bail by this Court vide order dated 29.04.2023 passed in CRM-M-37101-2022 and the petitioner, who is the father of the main accused and father-in-law of the deceased, is at par with him. It is further the contention of learned counsel for the petitioner that the petitioner has been in custody for a period of 01 year 06 months and 23 days.

4. Learned State counsel has handed over a copy of the postmortem report as well as opinion by the Department of Forensic Medicine and Toxicology dated 07.12.2022. Custody certificate has also been filed. As per the custody certificate, the petitioner has been in custody for a period of 01 year 06 months and 23 days.

5. I have heard learned counsel for the parties.

6. In the present case, the petitioner cannot draw any parity with the co-accused, namely, Prem Kumar, who is the brother-in-law of the deceased and was granted the concession of regular bail by this Court vide order dated 29.04.2023 passed in CRM-M-37101-2022. The said order has no mention about the opinion of the Department of Forensic Medicine and Toxicology dated 07.12.2022 and the said opinion does not seem to have been brought to the notice of the Court. The opinion of the Department of Forensic Medicine and Toxicology reads as under :

“On going through the findings of postmortem report No.PMR/BD/RD/GS/ML/81/2022 dated 24.04.2022, report of Histopathological Examination, Path No./2022/1055 dated 10.08.2022 and Chemical Examiner, Govt. of Punjab, Kharar report No.4019 dated 22.07.2022 with dispatch No.4666 dated 28.07.2022, we are of the opinion that the cause of death in this case is asphyxia as a result of smothering which is sufficient to cause death in ordinary course of nature. This is for your kind information.”

7. In the present case, at the time of conducting the autopsy, following observations have been made as per information provided by the Police :

“The alleged incident is of dated 23.4.2022 when Mahinder Kaur wife of Chanan Singh got a phone call at around 5.30 in morning regarding her daughter Manpreet Kaur aged 26 years wife of Tarsem Singh. The phone call was about that their daughter is sick and being taken to Sirsa, and when Manpreet Kaur and her son reached Sardulgarh another phone call came telling that your daughter is dead. When they saw the body of Manpreet Kaur there were injuries on the neck and face of Manpreet Kaur. It is alleged that Manpreet Kaur has been killed. Police received a rukka from Govt. Hospital Sardulgarh on dated 23.4.2022. Original copy of rukka is attached with the police papers. As per the rukka a dead

body of Manpreet Kaur wife of Tarsem Singh residence of Sardulgarh has been brought by Raj Kumar residence of Gobindpura. Body received in mortuary at 9.30 am on 23.4.2022. The rukka is signed by Dr. Shilpi, dated 23.4.2022 and timed 9.40 am. Police moved an application addressed to the SMO, Civil Hospital Sardulgarh, requesting to conduct postmortem of the body of Manpreet Kaur. Dead body was referred to higher center for postmortem by Board of Doctors. Further the dead body was referred to the Medical Superintendent GGS Medical Hospital Faridkot by the SMO and Civil Surgeon Mansa on dated 24.4.2022. The application is further marked by the Medical Superintendent GGS Medical Hospital Faridkot to the H.O.D. Deptt. of Forensic Medicine GGS MCH Fdk. Further a Medical Board was constituted by the HOD Forensic Medicine on dated 24.4.2021”

8. As is apparent from the above reproduced portion of the postmortem report, a Medical Board was constituted by the HOD, Forensic Medicine on 24.04.2021. The postmortem report reveals that the deceased had 19 injuries as under :

Sr. No.	Injuries	Marked	Injury Number
1	REDDISH ABRASION MEASURING 5.5 CM X 5.0 CM PRESENT ON RIGHT SIDE OF FACE 3 CM BELOW OUTER CANTHUS OF RIGHT EYE.	Yes	2
2	MULTIPLE SMALL REDDISH COLORED ABRASION VARYING IN SIZE	Yes	5

	FROM 2.3 CM X 1.4 CM TO 0.9 CM X 0.6 CM ON LEFT CHEEK.		
3	REDDISH BRUISE 2 X 1 CM PRESENT ON FRONT OF RIGHT ARM, 9 CM ABOVE ELBOW JOINT.	Yes	6
4	REDDISH COLORED ABRASION MEASURING 1.5 CM X 0.5 CM PRESENT ON BACK OF RIGHT ELBOW JOINT.	Yes	9
5	MULTIPLE REDDISH COLORED ABRASIONS VARYING IN SIZE FROM 0.7 CM X 0.5 X 0.3 CM PRESENT ON BACK OF RIGHT ELBOW JOINT.	Yes	10
6	REDDISH ABRASION OF SIZE 2.4 CM X 0.4 CM PRESENT ON LEFT SIDE BACK OF CHEST 15 CM BELOW TIP OF SHOULDER JOINT.	Yes	12
7	REDDISH ABRASION MEASURING 0.5 CM X 0.4 CM PRESENT ON DORSAL SURFACE, OUTER ASPECT OF RIGHT FOOT 9 CM PROXIMAL TO BASE OF RIGHT LITTLE TOE.	Yes	13
8	MULTIPLE REDDISH ABRASIONS VARYING IN SIZE FROM 1.5 CM Y. 1.5 Yes CM. TO 0.5 CM X 0.5 CM PRESENT ON RIGHT SIDE OF LOWER PART OF FACE INVOLVING MANDIBULAR AREA.	Yes	4
9	REDDISH ABRADED BRUISE OF MEASURING 4 X 1.5 CM PRESENT OVER RIGHT MASTOID REGION.	Yes	1
10	REDDISH COLORED ABRASION MEASURING 4.5 CM X 1.5 CM PRESENT ON LEFT SIDE OF FACE 1.1 CM BELOW LEFT ANGLE OF MOUTH	Yes	3
11	SMALL REDDISH ABRASION OF SIZE 0.2 CM X 0.2 CM PRESENT ON BACK OF RIGHT FOREARM 2 CM ABOVE INJURY NO. 7	Yes	8
12	REDDISH ABRASION, 6 X 1 CM PRESENT OVER TIP OF RIGHT SHOULDER JOINT.	Yes	11
13	REDDISH ABRASION, 0.6 CM X 0.4 CM PRESENT OVER OUTER ASPECT OF LOWER ONE THIRD PART OF RIGHT LEG, 5 CM ABOVE ANKLE JOINT.	Yes	14
14	REDDISH ABRASION, 0.8 CM X 0.7 CM PRESENT OVER RIGHT	Yes	15

	STERNOCLAVICULAR JOINT.		
15	SMALL REDDISH ABRASION 0.6 CM X 0.4 CM PRESENT ON BACK OF RIGHT FOREARM 8 CM ABOVE WRIST JOINT	Yes	7
16	LACERATION MEASURING 1.1 CM X 1.0 CM PRESENT OVER LEFT SIDE MUCOSAL ASPECT OF LOWER LIP. CLOTTED BLOOD PRESENT BRUISING OF GUMS OF UNDERLYING TEETH PRESENT.	Yes	17
17	MULTIPLE REDDISH ABRASION VARYING IN SIZE FROM 1.2 CM X 0.5 CM TO 0.4 X 0.3 PRESENT OVER RIGHT SIDE OF NECK	Yes	18
18	LACERATION MEASURING 2.2 CM X 0.8 CM, PRESENT OVER MUCOUSAL PART OF UPPER LIP, STARTING AT MIDDLE OF LIP AND EXTENDING UPTO LATERAL ANGLE OF MOUTH. CLOTTED BLOOD PRESENT. BRUISING OF THE GUMS OF UNDERLYING TEETH PRESENT. LEFT SIDED UPPER CENTRAL AND LATERAL INCISOR TEETH FOUND LOOSELY ATTACHED AND INFILTRATION OF BLOOD PRESENT AT SURROUNDING TISSUES	Yes	16
19	REDDISH ABRASION 2.1 CM X 1.2 CM PRESENT ON BACK OF RIGHT EAR LOBULE	Yes	19

9. The Board of Doctors constituted by the HOD, Forensic Medicine on 24.04.2021 opined vide report dated 07.12.2022 as under :

“We are of the opinion that the cause of death in this case is asphyxia as a result of smothering which is sufficient to cause death in ordinary course of nature. This is for your kind information.”

10. A perusal of the order dated 29.04.2023 passed by a Co-ordinate Bench in CRM-M-37101-2022 would reveal that the said opinion was not brought to the notice of the Court by the State counsel at the time of passing of the said order.

11. Keeping in view the above facts and the serious allegations levelled in the FIR, I do not find it to be a fit case for grant of regular bail to the petitioner and accordingly the present petition is dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

16.11.2023

jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO