

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

212

**CRM-M No. 3047 of 2023
Date of Decision : 23.3.2023**

*Monu alias Budhraj**..... Petitioner**versus**State of Haryana**..... Respondent*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Ram Singh Chaudhary, Advocate and
Mr. Afzal Hussain, Advocate and
Mr. Anil, Advocate, for the petitioner

Ms. Mahima Yashpal, DAG, Haryana

Mr. Kamal Deep Sehra, Advocate, for respondent no.2/complainant

TRIBHUVAN DAHIYA J. (ORAL):

1. This is a petition under Section 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No.432 dated 30.9.2021 under Sections 306, 376 and 34 IPC (Final report filed under Section 306 IPC only) registered at Police Station City Gohana, District Sonapat.

2. As per allegations in the FIR, lodged on the statement of deceased's brother, the deceased was married to the petitioner on 13.3.2013 and three children were born out of the wedlock. The petitioner and his family were harassing the deceased mentally and physically. They used to say that she was having illicit relations with co-accused Sumit *alias* Kala, and that either she should commit suicide or they would kill her. On 29.9.2021, the complainant received a telephone call from the petitioner that his sister has hanged herself and he should come and take her. A suicide note was also found there, in which

name of co-accused Sumit alias Kala was mentioned stating that he had raped the deceased. It was alleged that the suicide note was not written by the deceased, and apprehension was expressed that the petitioner and his family members got her killed on account of her relationship with Sumit and hanged her, or she had committed suicide due to the harassment meted out at their hands.

3. Learned counsel for the petitioner contends that the petitioner was married to the deceased about a decade back and three children were also born out of the wedlock. Prior to the lodging of the FIR, there has never been any complaint of harassment against him. It is only to settle personal scores and to implicate the petitioner along with his family members, they have been named by the complainant. The deceased committed suicide on her own for having been raped by co-accused Sumit, and the fact stands mentioned in the suicide note also. Investigation of the case is complete. Charges in the case were framed on 14.2.2022 and despite seven opportunities granted to the prosecution, none of the witness has been examined so far.

4. Learned State counsel, on instructions from Inspector Balinder, assisted by learned counsel for the complainant, opposes the grant of bail by stating that the trial is yet to commence and the case is fixed for examination of the complainant on 20.4.2023. Thirteen other witnesses will also be examined soon thereafter. She does not dispute that despite seven opportunities earlier granted, none of the witnesses could be examined by the prosecution. She has, however, tried to explain that it could not be done because FSL report regarding the suicide note was awaited. The same has now been received, and as per the report suicide note is in deceased's hand-writing. Based on that, further

investigation of the case will be carried out by joining the co-accused Sumit in the case. The petitioner is in custody since 2.11.2021, and there is no other case against him

5. The facts aforestated have been considered.
6. On the one hand, there is no specific allegation of subjecting the deceased to harassment by the petitioner that could drive her to take the extreme step of committing suicide. On the other, the FSL report regarding the suicide note has clearly stated that it is in the deceased’s hand-writing stating she had been raped by the co-accused who should be hanged. It is, therefore, debatable whether ingredients of offence under Section 306 IPC are made out against the petitioner. At the same time, despite several opportunities, none of the fourteen witnesses could be examined and trial of the case is not progressing. There is apparent negligence in prosecuting the case, which also entitles the petitioner to seek release from custody. He has no criminal antecedents and no useful purpose will be served by confining him to custody any further.
7. Accordingly, the petition is allowed. The petitioner is ordered to be released on bail to the satisfaction of the trial Court/Duty Magistrate.

(TRIBHUVAN DAHIYA)
JUDGE

23.3.2023
Ashwani

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