

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

CRM-M-2546-2023

Date of Decision: 29.03.2023

Gaurav

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Ravinder Kaur, Advocate, for the petitioner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.27 dated 27.02.2022, registered under Section 306 IPC, at Police Station Dinanagar, District Gurdaspur.

Adumbrated facts of the case are that statement of Ruspa widow of Sabi was recorded wherein she alleged that her elder daughter, namely, Simpi was 23 years of age and passed 10+2. It was alleged that about six days prior, she found her daughter Simpi crying in the room. On her asking, she disclosed that Gaurav son of Rashpal (petitioner) is harassing her too much from the last three months. She tried to console her. On 25.02.2022 at about 8:30 p.m., Gaurav came to their house drunkard and abused their entire family and threatened to defame their daughter Simpi. On 26.02.2022 at about 6:00 p.m., the complainant had gone out to bring medicine. On her return, she found that her daughter Simpi was lying on bed and her Devar's son, namely, Sonu was standing beside her. He informed that her daughter Simpi consumed poison being fed up with Gaurav. They immediately shifted her to the hospital, where the Doctors declared her dead. It was alleged that her daughter Simpi had consumed

poison being fed up with Gaurav. Request was made to take legal action against the accused. On the complaint, a formal FIR was registered and the investigation commenced. The petitioner was arrested on 04.06.2022. The petitioner approached the Court of learned Additional Sessions Judge, Gurdaspur for grant of bail, who, after hearing the parties, declined the same vide order dated 04.08.2022. Aggrieved by the same, the petitioner approached this Court by way of filing CRM-M-44551-2022, however, this Court vide dated 30.9.2022, after hearing both the sides allowed the petitioner to withdraw the petition and the same was dismissed as withdrawn. Hence, the petitioner has approached this Court by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner and the deceased are cousin. She submits that the allegations made by the mother of the deceased are totally false and frivolous. She submits that the relationship between the petitioner and the deceased was of brother and sister and the allegations levelled do not constitute any offence under Section 306 IPC. She further submits that in view of the facts and circumstances, the allegations do not constitute even any abetment as enumerated under Section 107 IPC. She submits that the investigation is complete and the challan is presented and the trial Court has already proceeded with the examination of the prosecution witnesses. She submits that PW-3 Sonu another cousin of the deceased has not supported the case of the prosecution and thus has been declared hostile. She submits that the petitioner has no criminal antecedents and thus, in the overall facts and circumstances, he deserves to be granted bail.

On the other hand, learned State counsel has opposed the

submissions made by learned counsel for the petitioner and has submitted that the petitioner had been continuously harassing the deceased and it is on account of the same, she was compelled to commit suicide by consuming poison. He submits that in all there are 14 prosecution witnesses, out of which 3 witnesses including the complainant have already been examined. He further submits that even though PW-3 has turned hostile, that would not adversely affect the case of the prosecution. On instructions from ASI Sohan Singh, he submits that the petitioner is not involved in any other case except the present case.

Heard.

Evidently, the petitioner and the deceased are the first cousins. The petitioner is behind bars since 04.06.2022. Out of 14 prosecution witnesses, 3 witnesses already stand examined. Whether any offence under Section 306 IPC read with Section 107 IPC is made out or not, is debatable and the same lies in the domain of the trial Court, after appreciation of the evidence led by both the parties before it. There is nothing on record to show that the petitioner has any criminal antecedents. Even otherwise, the material witnesses already stand examined and thus, the apprehension that the petitioner can tamper with the prosecution evidence does not survive. However, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion
on the merits of the case.

29.03.2023
sharmila

Whether Speaking/Reasoned

Whether Reportable

:

:

Yes/No

Yes/No

(RAJESH BHARDWAJ)
JUDGE