

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(214)

CRM-M-5211-2022

Date of Decision: 30.01.2023

Ripan Sharma

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Sandeep Kumar, Advocate for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

This is the second petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.44 dated 10.4.2021 under sections 304-B, 34 I.P.C (section 498-A IPC was added by the learned Trial Court while framing charges vide order dated 4.10.2021) registered at Police Station, Division No.3, District Jalandhar.

As per factual matrix, a complaint was lodged by Shubham Sharma, wherein it was alleged that his parents had already expired and he had a sister namely Shelly Sharma, who was married to Ripan Sharma i.e. the present petitioner about 5 years ago. They were blessed with a son who was about 4 years old. His sister and brother-in-law (petitioner) took huge loan from the bank to start a business of ready made clothes. The loan taken was utilized but his brother-in-law suffered loss in the business and on account of the same the lenders started demanding for their money. His sister opened a beauty parlour to support the family but his brother-in-law started harassing her by demanding money. His sister used to remain upset and finally on 9.4.2021 she committed suicide by hanging. It was alleged

that his brother-in-law Ripan Sharma and his brother Shanu Sharma used to harass his sister and hence she was compelled to commit suicide. A request was made to take legal action against the culprits.

On the basis of the complaint, present FIR was lodged and investigation commenced. Petitioner was arrested on 10.4.2021. He approached the court of learned Addl. Sessions Judge, Jalandhar for grant of bail, however, after hearing the parties, the same was declined vide order dated 4.6.2021. Aggrieved by the same petitioner had approached this court for grant of bail by way of filing CRM-M-39120-2021, which was dismissed as withdrawn by this court vide order dated 23.9.2021

Learned counsel for the petitioner vehemently contends that petitioner and deceased were happily married and there was no dispute as alleged between them. He submits that both petitioner and deceased had lost their parents before getting married and thus it was a simple marriage performed at home itself. It is submitted that there was no question of any demand of dowry. Counsel submits that though the unnatural death has taken place within 7 years of marriage but there was no harassment of the deceased on account of demand of dowry and thus the presumption under section 113-B of the Evidence Act would not be attracted in this case. Counsel has drawn the attention of this court to the deposition of the prosecution witnesses i.e. PW-1 to PW-3, who are close relatives of the deceased. Counsel submits that petitioner has no criminal antecedents and he has spent two years behind bars. It is further submitted that complainant in this case has gone to Dubai and therefore till date he has not been examined by the learned Trial Court. It is also submitted that there is no fixed date of his arrival to India to depose before the Trial Court and

therefore the petitioner cannot be allowed to suffer to await the arrival of the complainant. It is submitted that in the overall facts and circumstances of the case petitioner deserves to be granted bail.

On the other hand, learned State counsel on instructions from ASI Satnam Singh has submitted that there are specific allegations against the petitioner. He submits that the prosecution witnesses, who have been examined by the learned Trial Court, have supported the case of prosecution and thus the presumption under Section 113-B of the Evidence Act would be attracted. He further submits that complainant in this case has not been examined so far as he is not in India. It is submitted that out of total 15 prosecution witnesses 8 have already been 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 petitioner was married with the deceased about 5 years back from the date of occurrence. As per information provided by the State out of total 15 prosecution witnesses, 8 have already been examined. Complainant in this case has not been examined so far as he is stated to be out of the country. 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

30.01.2023
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No