

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

211

CRM-M-5816-2022

Date of Decision: 28.04.2023

Ashok Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Bikramjit Singh, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana

Mr. Sunny Tyagi, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

1. On 28.02.2023, the following order was passed:-

“The petitioner, through instant petition under Section 439 Cr.P.C., is seeking regular bail in FIR No. 136 dated 27.07.2020 under Sections 304-B & 34 of IPC registered at Police Station Kunjpura, District Karnal.

The case of prosecution is that petitioner solemnized marriage with deceased on 04.02.2014. The petitioner and his mother demanded motorcycle from the deceased in the year 2015 and on account of demand of dowry, the deceased committed suicide on 27.07.2020. The FIR was registered against petitioner, his mother, sister, brother and father. The police after completing investigation filed challan against the petitioner and his mother.

Learned counsel for the petitioner, inter alia contends that petitioner is in custody since 30.07.2020.

The petitioner is not involved in any other offence. The mother of the petitioner is co-accused and she has already been released on bail vide order dated 14.12.2021 passed by a Co-ordinate Bench of this Court in CRM-M-46137-2021. The deceased had committed suicide after 6 and ½ years of marriage and during the entire period no complaint was lodged against the petitioner or his family members. The petitioner is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Karnal. The petitioner has deep roots in the society. There is no possibility of flee from justice.

Learned State Counsel does not dispute the factum of custody of the petitioner. She further confirms that till date inspite of order dated 25.08.2022 of this Court, the complainant and other material witnesses have not been examined.

On 25.08.2022, this court passed following order:-

“Learned counsel for the petitioner submits that the petitioner is behind bars since 30.07.2020. However, the prosecution is not examining the witnesses intentionally just in order to prolong the incarceration . He has submitted that the Courts have been issuing theailable warrants to secure the presence of the witnesses. Learned State counsel submits that the case is fixed for 03.10.2022 for examination of witnesses. Learned trial Court is requested to examine the

witnesses, perferably, the complainant as well on the date adjourned. List on 27.10.2022.”

Thereafter, the matter was listed before this Court on 27.10.2022 and 16.12.2022. Despite expiry of substantial period from the date of order dated 25.08.2022 passed by this Court, the prosecution has failed to examine the complainant. The deceased committed suicide after 6 and ½ years of marriage and during this period no complaint was lodged against the petitioner or his family member. The petitioner is not involved in any other case. Co-accused has already been granted regular bail by this Court vide order dated 14.12.2021. The petitioner in terms of Article 21 of the Constitution of India has right to defend and put-forth his stand.

In view of above-stated facts and circumstances and in the interest of justice, this Court finds it appropriate to grant concession of interim bail to the petitioner. The petitioner be released on interim bail till the next date of hearing.

Adjourned to 28.04.2023.”

2. On being asked, learned State counsel submits that there is nothing on record disclosing that petitioner has misused the concession of interim bail granted by this Court. She further submits that till date complainant has not been examined and next date fixed before the Trial Court is 16.05.2023.

3. In view of above facts and circumstances, this Court is of the considered opinion that interim bail granted to the petitioner by this

Court vide order dated 28.02.2023 deserves to be made absolute and accordingly made absolute. The bail bonds furnished by petitioner at the time of interim bail shall deem to continue.

4. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

28.04.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>