

CRM-M-7420 of 2023 (O&M)

[1]

2023:PHHC:044954

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

101+206

CRM-M-7420 of 2023 (O&M)
Date of decision:27.03.2023

Mohit

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Pawan Kumar Hooda, Advocate
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

CRM No.13147 of 2023

Application is allowed as prayed for.

Annexures P-8 to P-10, are taken on record.

CRM-M-7420 of 2023

“CWP No.7420 of 2023” be read as “CRM-M-7420 of 2023” in
the order dated 16.02.2023.

Corrected order be uploaded on the website of this Court.

This is the second petition filed under Section 439 Cr.P.C.,
seeking grant of regular bail to the petitioner in case FIR No.694 dated
11.11.2020 registered for offences under Sections 304-B, 34 of Indian Penal
Code, 1860 at Police Station Chandni Bagh, District Panipat

(Annexure P-1).

Version of the prosecution is that FIR (Annexure P-1) has been registered by Bijender stating that his daughter Rachna alias Himanshi was married to Mohit (present petitioner) in May, 2019 and he spent about Rs.15.00 lacs on the marriage. She was tortured and physically assaulted by her in-laws as they were not satisfied with the dowry. His daughter came back to her parental home but with the intervention of panchayat members, she was rehabilitated and an assurance was given by the accused that they will not ill-treat her. On 11.11.2020, he received a phone call from his daughter saying that accused are planning to eliminate her. Accompanied with Hari Om Bhatta Mahawati, he rushed to her matrimonial home where he came to know that she has been done to death.

By referring to the medical evidence led by the prosecution, counsel for the petitioner submits that cause of death of the deceased could not be ascertained. A specific reference has been made by him to the PMR (Annexure P-3) as well as deposition (Annexure P-9) of the doctor. Counsel submits that deceased was asthmatic and had family history of hypertension. Counsel submits that although all the family members of the petitioner were enmeshed in the criminal case, but investigating agency found them to be innocent. He submits that after conclusion of the examination-in-chief of the complainant, an application under Section 319 Cr.P.C, has been instituted by the prosecution for summoning them as additional accused. Counsel submits that complainant, who is the most material prosecution witness, has been examined after the first bail petition

was withdrawn from this Court, vide order dated 07.05.2022. He submits that petitioner, who has clean antecedents and is in custody since 06.02.2021, deserves to be released from detention.

Per contra, State counsel, upon instructions from SI Subash, has opposed the petition and submits that the death had taken place in suspicious circumstances within two years of marriage and there are specific allegations of mal-treatment and harassment of the deceased at her matrimonial home on account of non-fulfillment of demand of dowry. He urges that essential ingredients of Section 304-B, IPC are satisfied. He submits that prosecution has sufficient incriminating material to nail the accused and there were unexplained injuries on the body of the deceased. Upon further instructions, he submits that 05 out of total 26 prosecution witnesses, have been examined.

Having heard counsel for the parties, but without adverting to the merits or de-merits of the arguments addressed, this Court is *prima facie* of the view that accusation levelled against the petitioner would remain subject matter of debate before the Trial Court. Considering the length of custody of the petitioner, stage of the trial and that the most vital prosecution witness has been examined, this Court is inclined to accept the prayer made in the petition.

Petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

March 27, 2023
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No