

**211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-7360-2023****Date of decision : 16.11.2023****Mohit Kumar****.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********Present :- Mr. Fateh Saini, Advocate
for the petitioner.****Ms. Upasana Dhawan, AAG, Haryana.***********RAJESH BHARDWAJ, J. (Oral)**

Petitioner has approached this Court by way of present second petition praying for grant of regular bail in case FIR No.80 dated 11.04.2022, under Section 306/34 of IPC (later on Section 306 IPC deleted and Section 304-B IPC added), registered at Police Station Panjokhra, District Ambala.

Adumbrated facts of the case are that the police recorded statement of father of the deceased namely, Daljinder Kaur. It was alleged by the complainant that he had three daughters and one son. He married his daughter Daljinder Kaur with Mohit (petitioner) on 15.01.2021. After the marriage, they were blessed with a daughter, who was 04 months old on the date of occurrence/incident. It was alleged that the mother-in-law, sister-in-law and husband of his daughter used to harass her mentally. It was further alleged that the mother-in-law used to harass his daughter for dowry. On 11.04.2022, he received a message that his daughter has been admitted in GMCH, Sector-32, Chandigarh as she had consumed poison.

On reaching the hospital, he found his daughter dead. It was alleged that his daughter was forced to commit suicide by the accused. Request was made to take legal action against the culprits. On the basis of complaint, formal FIR was registered and investigation commenced. Postmortem of the dead body was conducted and the petitioner was arrested on 30.04.2022. Petitioner approached the Court of learned Additional Sessions Judge, Ambala praying for grant of bail. However, after hearing counsel for the parties, learned Additional Sessions Judge declined the same vide his order dated 14.09.2022. Aggrieved by the same, petitioner earlier approached this Court by way of filing CRM-M-44377-2022 which was dismissed as not pressed at this stage vide order dated 29.09.2022. Hence, petitioner is before this Court by way of the present second petition.

Learned counsel for the petitioner has vehemently submitted that the petitioner being husband of the deceased has been falsely implicated in this case. He has submitted that there are no specific allegations of harassment caused to the deceased on account of demand of dowry by the petitioner or his family members. He submits that the complainant has implicated the whole family of the petitioner on the basis of false and frivolous allegations. He submits that in all there were 07 accused family members of the petitioner who were arrayed as accused and learned trial Court has discharged 05 accused out of 07. He submits that as on date, charges are framed only against the petitioner and his mother. He further submits that his mother is already on anticipatory bail granted by this Court. He has submitted that the petitioner is behind bars from the last about 01 year and 08 months and till date, there is no

substantial progress in the trial as no witness has been examined till date. He submits that in the facts and circumstances of the case, the presumption under Section 113-B of the Evidence Act would not be attracted in this case as there are no allegations regarding harassment caused on account of demand of dowry. He submits that the offence under Section 304-B IPC is not made out against the petitioner. He submits that in the attending facts and circumstances, petitioner deserves to be granted bail.

Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. She submits that admittedly the deceased has died unnatural death within seven years of marriage. She submits that there are allegations of demand of dowry by the complainant. It is further submitted that petitioner is husband of the deceased and the unnatural death of the deceased has taken place in the matrimonial home and thus, provision of Section 113-B of the Evidence Act would be attracted in this case. However, she on instructions from ASI Raghubir Singh, PS Panjokhra, District Ambala, submits that charges are framed in this case and in all there are 16 prosecution witnesses, out of which, none has been examined till date. She submits that petitioner has no case for grant of bail.

Heard. Evidently, petitioner is behind bars since the date of his arrest i.e. 30.04.2022. Out of 07 accused, 05 accused have been discharged by the trial Court. Petitioner's daughter is just 11 months old, who is stated to be with mother of the petitioner at present. Whether the offence under Section 304-B of IPC is made out against the petitioner or not is a matter of trial. This Court would refrain itself from commenting

anything on the merits of the case. However, as submitted before this Court that out of 16 prosecution witnesses, none has been examined till date.

Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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.

16.11.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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