

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

225

CRM-M-9708-2023

Date of Decision: 28.02.2023

Kulbir Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ravi Malhotra, Advocate for the petitioner

Mr. Digvijay Nagpal, AAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Cr.P.C., is seeking regular bail in FIR No.0042 dated 28.03.2022 under Sections 306 & 120-B of IPC registered at Police Station City Rupnagar, District Rupnagar.

2. The case of prosecution is that Jaspreet Kaur aged 26 years performed marriage with petitioner on 18.06.2019. This was second marriage of petitioner as well as deceased. The petitioner was having illicit relations with his sister-in-law (*bhabhi*). On account of his illicit relations with his sister-in-law, the petitioner used to harass the deceased. He used to beat her. On 27.03.2022, the brother of the deceased received a telephonic call and came to know that his brother-in-law (petitioner) has consumed some poisonous substance and he has been referred to GMCH, Sector 32, Chandigarh. When the complainant reached GMCH, Sector 32, Chandigarh, he came to know that his sister as well as his

brother-in-law have consumed poison. The petitioner survived, however, sister of the complainant passed away.

3. Learned counsel for the petitioner, *inter alia* contends that the petitioner is in custody since 16.04.2022. The FIR was registered against three persons apart from the petitioner. The father, brother and sister-in-law of the petitioner stand released on bail. The father of the petitioner was granted regular bail by Sessions Court whereas sister-in-law has been granted regular bail by this Court vide order dated 29.07.2022 passed in CRM-M-20092-2022. The brother of the petitioner has been granted concession of anticipatory bail. The petitioner is not involved in any other offence and he is in custody since 17.04.2022. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Rupnagar. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 25.02.2023 is taken on record. Registry is directed to tag the same at appropriate place. As per custody certificate, the petitioner is in custody since 17.04.2022 and he is not involved in any other crime.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. He further submits that out of 26 witnesses, none has been examined. The petitioner is involved in the

commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. In the case in hand, the petitioner as well deceased consumed poison at the same point of time. The petitioner was saved by hospital staff, however, deceased could not be saved. There are 26 witnesses and till date none has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. In the FIR, allegations were made against brother, father and sister-in-law of the petitioner. Brother of the petitioner was granted anticipatory bail whereas sister-in-law (*bhabhi*) and father have been granted regular bail. The petitioner is not involved in any other crime and he is in custody since 17.04.2022. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

8. 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

28.02.2023
Mohit Kumar

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