

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 10988/2023

Date of decision: 19.07.2023.

Anil

.....Petitioner.

Vs.

State of Haryana

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. RN Lohan, Advocate for the petitioner.
Mr. Brijesh Sharma, AAG Haryana.

Nidhi Gupta, J.

Petitioner Anil son of Om Parkash in this first petition under Section 439 Cr.PC seeks regular bail in case FIR No.597 dated 29.11.2021 under Sections 304-B/34 IPC, registered at PS City Jind, District Jind.

Briefly stated facts of the case are that on the statement of Ashok Kumar, complainant/father of the deceased, present FIR was registered. It is the case of the prosecution that marriage between the petitioner and the deceased Pooja was solemnized on 22.8.2015 and a child was born out of the said wedlock. It is alleged in the FIR that the petitioner along with his elder brother Yogesh @ Kala, sister Geeta, and mother Darshana, used to harass the deceased Pooja for dowry. It is further alleged that time and again the matter was compromised upon the apologies tendered by the petitioner and promises made by him to not repeat his mistakes in future, but to no avail.

Finally, the deceased had left the matrimonial home and come to her parental home however, on the assurance of the petitioner, the complainant had sent

his deceased daughter to her matrimonial home on 20.11.2021 in order to save her marriage. Thereafter, Abhishek-son of the complainant had gone to meet his sister on 28.11.2021 where she had revealed that the accused were harassing her yet again and had not mended their ways. It is alleged that on 29.11.2021, Abhishek-son of the complainant got a call from the petitioner that his sister had hanged herself and they should come. Upon reaching the petitioner's house the complainant and his other family members who were accompanying him, found that the dead body of deceased Pooja lying on the floor and there were signs of string on her throat. The persons present there told the complainant that his daughter Pooja had ended her life by hanging herself from the fan with the help of chunni on the room situated on the upper floor. On reaching the upper floor complainant and other persons accompanying him found that part of the chunni was on the fan and some portion of the chunni was lying on the floor. It was alleged that Pooja had committed suicide due to harassment caused by the petitioner and his elder brother Yogesh @ Kala and petitioner's sister Geeta and mother-in-law Darshana.

Ld. counsel for the petitioner submits that the case put forth by the prosecution side is utterly false and untrue. There are material discrepancies and contradictions in the prosecution case as even the date of marriage is in dispute. Ld. counsel submits that no dowry articles have been recovered from the petitioner and there are no pictures of the alleged marriage as, in actuality the petitioner was never married with the deceased. It is submitted that in actual fact the deceased was turned out of her parental home by her complainant father and had been living with the petitioner and therefore, there is no question of making a demand for dowry, let alone

harassing the deceased for dowry. It is further submitted that co-accused Devi Dayal @ Yogesh @ Kala brother of the petitioner has been granted bail by this Court vide order dated 22.12.2022. It is further submitted that the complainant and his son Abhishek have already been examined as PW1 and PW2 respectively, and therefore, there is no apprehension that the petitioner will win them over. It is further submitted that there is no written complaint on file. Ld. Counsel submits that the petitioner has been in custody since 1.12.2021.

Custody certificate dated 18.7.2023 produced by Id. State counsel is taken on record. Ld. State counsel opposes the prayer for grant of bail and submits that out of 17 witnesses, 9 have been examined so far.

Heard ld. counsel for the parties.

Perusal of the custody certificate reveals that there are no other cases against the petitioner. Keeping in view the totality of the facts and circumstances of the case, and the fact that petitioner is in custody for almost two years, and that 9 PWs still remain to be examined and that trial shall take some time to conclude, the present petition is **allowed**, and petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

However, nothing stated above shall be taken as an expression of opinion on the merits of the case.

19.07.2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned	Yes
Whether reportable	Yes/No