

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
204 **CRM-M-13297-2022 (O&M)**
Date of decision: 16.08.2023

Krishan Kumar

...Petitioner(s)

Vs.

State of Haryana

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Prateek Rathee, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG Haryana.

Mr. Nipun Vashist, Advocate
for the complainant.

NIDHI GUPTA, J.

Prayer in the present first petition under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") is for grant of regular bail to the petitioner in case FIR No.116 dated 08.04.2020 under Sections 304-B and 34 IPC registered at Police Station Kherki Daula, Gurugram (Annexure P1).

2. Brief facts of the case are that the petitioner was married to the deceased on 29.12.2016 or 29.11.2013. One daughter was born out of this wedlock. On 07.04.2020, the deceased committed suicide by hanging herself, whereafter the present FIR was registered on the basis of the statement/complaint of the brother of the deceased.

3. It is inter alia submitted by learned counsel for the petitioner that the petitioner has been in custody for more than 3 years.

The complainant/brother of the deceased already stands examined in the present case. The daughter born of the wedlock of the petitioner and the deceased is currently in the custody of the petitioner's mother. The mother-in-law of the deceased/mother of the petitioner has already been granted anticipatory bail by this Court vide order dated 02.06.2020 (Annexure P5), which was made absolute by this Court vide order dated 27.11.2020. Learned counsel further submits that allegations in the FIR are that the petitioner and his mother used to torture the deceased and beat her because of inadequate dowry. It is submitted that the said allegation is absolutely false as at the time of marriage, the parents of the deceased were already dead; and the complainant being the younger brother of the deceased and only about 16-17 years of age was still a minor. Therefore, there was no question of demanding dowry.

4. Learned counsel further submits that the deceased had earlier filed a complaint (Annexure P2) against the petitioner and his mother. However, the matter was compromised by the Panchayat. It is submitted that as the petitioner was in jail and mother of the petitioner was apprehending arrest, an offer was made to the complainant in the Panchayat to look after the minor child of the petitioner, however, the complainant had bluntly refused to look after his niece. In this regard, learned counsel for the petitioner refers to the affidavits of three Panches collectively appended as (Annexure P7) where in they have deposed/attested to this fact. It is further submitted that no suicide note was recovered from the deceased.

5. Per contra, learned counsel for the complainant submits that the petitioner was in the habit of taking liquor and used to habitually torture deceased sister of the complainant by demanding dowry. It is submitted that the deceased, tired of the torture of the petitioner, had filed a complaint dated 12.05.2018 (Annexure P2) before the SHO Women Police Station Gurugram; and the alleged settlement dated 27.07.2018 is disputed as it contains the reading that *"Both the parties are agreed to take mutual consent divorce U/S 13 B and a son was born out of this wedlock, namely Gaurav, two years old will be remain in the custody of mother Sonia."* It is submitted that the petitioner may have entered into a compromise with some person/fabricated the compromise, as a daughter named Bhoomi was born out of the wedlock of the petitioner with complainant's deceased sister and no son named Gaurav was born out of the said wedlock. It is submitted that even the learned Additional Sessions Judge, Gurugram in his order dated 28.01.2022 has noted that *"copy of settlement dated 27.07.2018 which is part of the challan refers to a son namely Gaurav whereas the deceased Sonia had a daughter named Bhoomi.."*

6. Learned counsel further refers to his deposition before the learned trial Court as PW2 to submit that Bhagwati the paternal aunt (Bua) of the complainant and the deceased had conducted the marriage of the petitioner and the deceased. It is submitted that though Bhagwati and the complainant had done their best and given a good marriage and dowry to the deceased, however, the petitioner and his mother were

never satisfied. Just after six months of the marriage, the petitioner and his mother had started harassing the deceased for dowry upon which Bhagwati had given Rs.40,000/- to the petitioner to appease him. It is submitted that, that pacified the deceased for some time however, again after some time, he shunted out the deceased from the matrimonial home to bring more dowry from her parental house.

7. Learned counsel further submits that cash was given to satisfy the greed of the petitioner many times. However, their demands did not cease. Even Panchayat was convened where the petitioner apologised. However, after some days, again they started harassing the deceased for dowry. In 2017, when the deceased was pregnant, the accused gave severe beatings to the deceased. Thereafter, again in 2018, after persistent beatings, the deceased made a complaint to the Women Police Station, Manesar. However, upon apology of the petitioner, the matter was settled. Thereafter, accused persons taunted the deceased for giving birth to a girl child. It is submitted that in 2018, after the compromise, the deceased was again shunted out of the matrimonial home whereupon the deceased and her minor daughter stayed in the home of the complainant for over almost one year and during this one year, the accused did not enquire even about the well-being of the deceased or his daughter. In 2019, he again demanded Rs.20,000/- from Bhagwati which was given to him. Even the electricity in the house of the petitioner had been disconnected due to non-payment of bill and it was Aunt Bhagwati who had paid the outstanding bill of Rs.84,000/- of

electricity charges. Thereafter, again the deceased was kept properly in the matrimonial home for a few days, however, on 03.04.2020, the deceased made a call to the sister of the complainant to say that she can be killed at any time as she had refused to further fulfil their demand for dowry. It is submitted that thereafter, the complainant and his aunt Bhagwati tried to contact the deceased, however, her phone was switched off, and due to Covid, the complainant and his wife and Bhagwati could not go to the house of the deceased to check upon her welfare. Thereafter, on the ill-fated day of 07.04.2020, when their attempts to contact the deceased were unsuccessful, at about 6:30 pm uncle of the petitioner informed aunt Bhagwati that the deceased had expired. It is stated that therefore, the petitioner had consistently tortured the deceased throughout their marriage as a result of which the deceased was driven to commit suicide. It is further submitted that otherwise, which married woman would leave a child of two-and-a-half years old and kill herself. It is submitted that the petitioner never worked, and it was the deceased who was working in a play school to run the matrimonial home.

8. Learned State Counsel files custody certificate dated 14.08.2023 which is taken on record, as per which the petitioner has undergone custody as under-trial for 3 years 4 months and 7 days. Custody certificate reveals that there was another case against the petitioner bearing FIR No.202/2014 under Sections 279, 304-A and 337

IPC registered at Police Station Bilaspur, Gurugram, wherein the petitioner has been acquitted vide order dated 06.01.2023.

9. I have heard learned counsel for the parties.

10. Date of marriage in the present case is disputed to be 29.12.2016 or 29.11.2013, and learned counsel for the parties are unable to reconcile the same from the record at this stage. However, be that as it may, wife of the petitioner has died within seven years of marriage. Without commenting on the merits of the matter, yet, keeping in view the totality of the facts and circumstances of the case, I find that no ground is made out to grant regular bail to the petitioner at this stage.

11. Present petition accordingly, stands **dismissed**.

12. However, it is made clear that nothing stated above shall be deemed as an expression of opinion on the merits of the case.

13. Pending application(s) if any also stand(s) disposed of.

16.08.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No