

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

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Criminal Misc. No. M-17754 of 2023

Date of decision :-13.07.2023

Joginder Kaur

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

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

Mr. Pankaj Khullar, AAG, Punjab.

NIDHI GUPTA J. (Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.21 dated 20.02.2021, under Sections 304-B, 498-A, 34 IPC and 201 IPC (added later on), registered at Police Station Lohian, District Jalandhar (Rural), during pendency of the trial. The petitioner is in custody since her arrest on 21.02.2021.

Adumbrated facts of the case are that the complaint was lodged by Beera son of Buta Singh, who is father of the deceased. It was alleged that he married his daughter namely, Amandeep Kaur about 2 years back with Kuldeep Singh son of Phuman Singh (husband of petitioner). After the marriage, in-laws of his daughter started harassing her for demand of dowry. Her mother-in-law (petitioner herein) used to taunt her that she has not given birth to any

child. Time and again, she was being compelled to bring her share in the land of her parental property. Besides this, they used to demand the dowry in all possible manner. The complainant tried to resolve the dispute with the help of respectables, however, the same remained unsuccessful. On 20.02.2021, he received a phone call that his daughter has committed suicide by hanging. He along with his relatives went to the matrimonial home of his daughter and found his daughter lying dead. It was suspected that his son-in-law, mother-in-law (petitioner herein) and father-in-law compelled his daughter to commit suicide. The request was made to lodge the FIR against the accused and to take legal action against them. On the basis of the complaint, formal FIR was lodged and the investigation commenced. The post-mortem of the deceased was conducted and the petitioner (mother-in-law), her husband (father-in-law) and son (husband) all three were arrested by the investigating agencies on 21.02.2021. Co-accused, namely, Phuman Singh (husband of the present petitioner) has been granted the benefit of regular bail by this Court vide order dated 14.12.2022, passed in CRM-M-57514-2022 (Annexure P-3). The petitioner approached the Court of learned Additional Sessions Judge, Jalandhar praying for grant of bail, however, the same was declined by learned Additional Sessions Judge vide his order dated 07.09.2021.

It has been vehemently contended by counsel for the petitioner that the petitioner is mother-in-law of the deceased and it is only on that account, she has been implicated in this case. He submits that the daughter of the complainant though died within seven years

of marriage, however, the petitioner has no role whatsoever in harassment or cruelty caused to the deceased on account of demand of dowry. He submits that from perusal of the FIR, it is clear that there are no specific allegations against the petitioner and the same are omnibus in nature. He submits that after the death of deceased, the complainant has implicated all the family members of the petitioner only in order to harass and humiliate the whole family members. He submits that from the reading of the allegations in the FIR, even the presumption under Section 113-B of Evidence Act is not attracted against the petitioner. He submits that the investigation is already complete. Charges are framed and the trial has already commenced with recording of the evidence. The petitioner is about 65 years of age and is behind bars from the last more than 2 years and 4 months and the prosecution could not examine all the witnesses till date. He submits that the petitioner has no criminal antecedents and thus, in the overall facts and circumstances of the case, she deserves to be granted regular bail.

Learned State counsel has filed the custody certificate of the petitioner dated 12.7.2023 and the Status report dated 13.7.2023 by way of affidavit of Harjit Singh, PPS, Deputy Superintendent of Police (Headquarter)-cum-Deputy Superintendent of Police, Sub Division Shahkot, District Jalandhar (Rural), on behalf of respondent-State in Court today, which are taken on record, subject to all just exceptions. Copies of the same are handed over to learned counsel for the petitioner.

Learned State counsel on the other hand has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner is mother-in-law and there are allegations against all the family members of the petitioner who had harassed her for demand of dowry. He has submitted that the deceased died an unnatural death within seven years of marriage on account of harassment caused to her on account of demand of dowry and thus, presumption under Section 113-B of Evidence Act is attracted against the petitioner and the co-accused. He submits that in all there are 25 prosecution witnesses, out of which, examination-in-chief of three witnesses has been conducted. He has further submitted that as per the instructions, the petitioner has no criminal antecedents.

Heard.

Petitioner before this Court is mother-in-law of the deceased who is behind bars since 21.02.2021. As submitted by learned State counsel, out of 25 prosecution witnesses 03 witnesses stands examined (in-chief). The father-in-law Phuman Singh has already been granted regular bail by this Court as mentioned above. There is nothing on record to show that the petitioner has any criminal antecedents. As contended by counsel for the petitioner that learned Additional Sessions Judge has also observed that there are no specific allegations but there are only general allegations of demand of dowry against members of the in-laws family and hence, the bail qua her was rejected.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence

led by both the parties before the trial Court. The trial of the case will take sufficiently long time. This Court would refrain itself from commenting anything on the merits of the case. However, confining itself to the prayer made for bail, this Court finds that 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 her 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.

The petition is allowed.

July 13, 2023

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No