

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

210

CRM-M-19386-2022 (O&M)

Date of order: 08.08.2023

Pushpender

.....Petitioner(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Mukesh Yadav, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG Haryana.

Nidhi Gupta, J.

Present is the first petition filed by the petitioner under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") seeking grant of regular bail in case FIR No.92 dated 25.02.2022 registered under Sections 304-B and 201 of Indian Penal Code, 1860 (hereinafter referred to as "IPC") (alternate charge under Section 302 of IPC) at Police Station Model Town, Rewari.

2. FIR in the present case was registered on the basis of statement of complainant-father of the deceased. FIR is reproduced hereinbelow:-

"To the SHO Police Station Model Town Rewari, Sir, it is submitted that the applicant Karan s/o Babulal Kushwaha R/o village Ratousa Police Station Uldhan District Jhanshi (UP) the marriage of my daughter was solemnized with Pushpender s/o Ghanshyam Kushwaha R/o village Patpura Police S tation Chandra MP about 1 ½ year back from today. Since marriage,

my daughter's husband Pushpender started demanding five lakh rupees in additional dowry and on the day of the day, he abused the mother sister of the applicant's daughter Jyoti and physically and mentally harassing her and threatened to kill her. About 4 months ago from today, the said Pushpender brought Jyoti to Rewari, where he lived in the house of Pyare Lal Yadav in Uttam Nagar Police Station Model Town Rewari. On dated 06.11.2021 said Pushpender killed my daughter Jyoti by hanging her in Rewari for demanding additional dowry and came to village Patpura with the dead body, where intervention of people PM was done. Husband Pushpender has killed my daughter over dowry. Therefore it is requested to you that action may be taken by registering the report...".

3. It is inter alia submitted by learned counsel for the petitioner that the petitioner was married to the deceased in the year 2020, and no child was born out of this wedlock. It is stated that the deceased and the petitioner were living together happily, and the petitioner has been falsely implicated in the matter. It is further submitted that though the date of incident is 06.11.2021, however FIR has been registered after about four months thereafter only on 25.02.2022. It is submitted that the post-mortem and cremation of the deceased was conducted in the presence of the complainant party. It is further submitted that utterly false and baseless allegations regarding dowry have been levelled by the complainant against the petitioner in the FIR. Learned counsel further submits that the petitioner has been in custody since 26.02.2022.

4. Learned State Counsel files status report by way of affidavit of Narender Kumar, HPS, Deputy Superintendent of Police, Bawal,

District Rewari dated 07.08.2023 which is taken on record. Learned State Counsel also files custody certificate dated 07.08.2023 which is taken on record and as per the same, the petitioner has been in custody as undertrial for a total period of 1 year 5 months 12 days. Learned counsel further submits that all the prosecution witnesses have been examined in the present case and the matter is now fixed before the learned trial Court for defence evidence on 09.08.2023. It is further submitted that in his evidence, the complainant has supported the prosecution case.

5. I have heard learned counsel for the parties.
6. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the case, including the fact that prosecution witnesses already stand examined; and that the trial will take some time to conclude; and the fact that the petitioner has been in custody since 26.02.2022, for a period of 1 year 5 months 12 days, the present petition is **allowed**. The petitioner, namely Pushpender son of Ghanshyam Kushwaha is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.
7. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.
8. Pending application(s) if any also stand(s) disposed of.

08.08.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No