

... Petitioner

Versus

State of Haryana

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Maninder Arora, Advocate
for the petitioner.

Mr.Munish Sharma, DAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

1. This is the second petition filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
22	26.01.2020	Sadar Ambala, District Ambala	304-B IPC

2. Version of the prosecution is that FIR has been registered on the statement of Harwinder Singh, wherein he stated that one of his sister, namely, Jaswinder Kaur was married to Joginder Kumar @ Goldy, present petitioner, in March, 2019 and she was given dowry as per their financial status. The couple did not have any child from the wedlock and they used to quarrel often as the petitioner was a drug addict and never gave money to her to meet expenses. A reconciliation was attempted by the Panchayat but

208

Joginder Singh @ Goldy started demanding money from her after the settlement. He sold her jewellery as well as the motorcycle, which was given to him at the time of marriage. On 26.01.2020, a message was received on the phone of the complainant's wife that Jaswinder Kaur has committed suicide. It has been alleged that she killed herself as she was being harassed by Joginder Singh @ Goldy.

3. Counsel for the petitioner has contended that although it has been alleged that petitioner had been repeatedly demanding dowry but during his cross-examination, the complainant, who has been examined as PW1, has not been able to produce any evidence to establish that any money was transferred to the petitioner. He submits that even the dowry articles and motorcycle alleged to have been sold by the petitioner have, in fact, been recovered from the matrimonial home. It is his argument that the deceased committed suicide as she had a tumor. He claims that the entire expenses of the treatment had been borne by the petitioner and his family. Counsel asserts that the first petition filed by the petitioner was withdrawn after arguments on 21.01.2021 and thereafter charge was framed in February, 2021 and the complainant, who is the star prosecution witness, has been examined but has not been able to refer to any material to establish the guilt of the petitioner and therefore, the petitioner, who is in custody since 26.01.2020 deserves to be enlarged on bail.

4. Opposing the petition, State counsel upon instructions from ASI Jasbir Singh and by referring to the reply filed by way of an affidavit, submits that the allegations against the petitioner are very serious. He

208

submits that all the three essential ingredients of Section 304-B IPC are established as the death has taken place in unnatural circumstances within less than one year of marriage and there are allegations of demand of dowry. By referring to the reply, he submits that the cause of death of the deceased is asphyxia due to hanging. As per his instructions, 12 out of 20 prosecution witnesses have been examined.

5. I have heard counsel for the parties and considered their respective submissions.
6. The culpability of the petitioner in the crime will be a subject matter of debate before the trial Court. Petitioner, otherwise has clean antecedents has been in custody for the last more than 44 months. Trial is midway and is unlikely to conclude in the near future. Considering these factors, this Court is of the view that the prayer made in the petition is worth acceptance.
7. In view of the above, without advertng to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.
8. Any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

21.09.2023
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No