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

CRM-M-22550-2023

Date of decision : 10.05.2023

Jograj Singh @ Gabar @ Yograj Singh**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Gagandeep Singh Virk, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

*********RAJESH BHARDWAJ, J. (Oral)**

This is the third petition filed by the petitioner praying for grant of regular bail in case FIR No.155 dated 17.09.2021 under Sections 306, 305, 506 of IPC (Section 346 IPC deleted), registered at Police Station Girdderbaha, District Sri Muktsar Sahib.

Adumbrated facts of the case are that the statement of Rimpa Singh was registered. It was alleged that his marriage was solemnized with Gurpreet Kaur about 05 years ago. Out of the marriage, they were blessed with one son namely, Gurfateh Singh who is aged about 2½ years. On 06.09.2021, his wife left home along with the son Gurfateh Singh as she was angry with him. They tried to search her, however, failed in tracing her out. Later on, he came to know that his wife was in a relationship with Yograj Singh @ Gabbar (petitioner). It was suspected that Yograj Singh @ Gabbar had kept her wife illegally confined in order to perform marriage with her. Yograj Singh @ Gabbar also made him a

phone call telling him that his wife Gurpreet Kaur has reached canal at Bathinda and she has threatened him on phone that she would jump in the canal. He reached to the canal but did not find any clue of his wife and son. He suspected that Yograj Singh @ Gabbar has kept his wife illegally confined. Request was made to take legal action against the accused. On the basis of the complaint, FIR was registered and investigation commenced. During investigation, dead bodies of both Gurpreet Kaur and Gurfateh Singh were recovered from the canal at Ganganagar, Rajasthan on 07.09.2021 and the postmortem was conducted on 10.09.2021. As per the postmortem, cause of death was ascertained to be Asphyxia due to drowning. Petitioner was arrested on 01.10.2021. He approached the Court of learned Additional Sessions Judge, Sri Muktsar Sahib praying for grant of bail. However, the same was declined by learned Additional Sessions Judge and thereafter, he approached this Court by way of filing petition No.CRM-M-17728-2023 which was allowed to be dismissed as withdrawn on 20.04.2023. Earlier to that CRM-M-9506-2022 was filed by the petitioner was also dismissed as withdrawn on 10.03.2022. Hence, this is the third petition filed by the petitioner praying for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He submits that petitioner is the cousin of complainant. He further submits that from the allegations made in the FIR, no case as alleged is made out against the petitioner. He has submitted that the necessary ingredient for constituting offence under Section 306 read with Section 107 IPC is not made out. He submits that there was no suicide note left by

the deceased in this case. He has submitted that only on the basis of bald allegations that the deceased had relationship with the petitioner would not constitute the offence under Section 306 read with Section 107 IPC. He further submits that the petitioner had been arrested on 01.10.2021 and since then, he is behind bars. He submits that till date, prosecution has not examined even a single prosecution witness and thus, incarceration of the petitioner is being prolonged without any justification. He further submits that petitioner has no criminal antecedents and thus, in the facts and circumstances, he deserves to be granted bail.

Learned State counsel, on the other hand, has submitted that the complainant is the husband of deceased Gurpreet Kaur. He, on instructions from ASI Hakam Singh, submits that there were specific allegations regarding the relationship of the petitioner with the wife of the complainant. He further submits that Gurpreet Kaur committed suicide along with the child by jumping into the canal. He submits that the dead bodies of both the deceased were recovered from the canal in Ganganagar, Rajasthan on the very next day i.e. 07.09.2021 and as per postmortem, the cause of their death was ascertained to be asphyxia due to drowning. He submits that in all there are 18 prosecution witnesses and examination of the witnesses is to commence from 12.05.2023. He submits that at this stage, petitioner has no case for the grant of bail.

I have heard counsel for the parties and perused the record.

Evidently, petitioner is behind bars since 01.10.2021. The allegations made by the complainant are regarding relationship of the petitioner with the deceased who was wife of the complainant. There is

nothing on record to show that there was any suicide note left by the deceased. Whether the offence under Section 306 read with Section 107 IPC is constituted against the petitioner or not is a subject matter of trial Court which shall be appreciated on the basis of evidence to be led before the trial Court. However, this Court cannot ignore the fact that the petitioner is behind bars from last 01 year and 08 months and out of 18 prosecution witnesses, none has been examined so far. There is nothing on record to show that the petitioner has any other criminal antecedents.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned 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 his 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.

10.05.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No