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

CRM-M-22754-2023

Date of decision : 11.05.2023

Hardial Singh @ Nazam**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Baljinder Singh Sra, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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

Prayer in the present petition is for grant of bail to the petitioner in case FIR No.67 dated 30.04.2021, under Section 302, 34 of the Indian Penal Code, registered at Police Station Sangat, District Bathinda.

Adumbrated facts of the case are that Prakash Singh @ Passi got recorded his statement wherein it was alleged that he had four daughters and one son. His daughter namely, Sukhpreet Kaur was about 30 years of age and married to Hardial Singh @ Najam (petitioner) about 15 years ago. Out of the wedlock, they were blessed with two daughters who are of the age of 12 years and 04 years old. There normally used to remain a dispute between husband and wife and for resolving the same, number of times, the Panchayats were convened but the dispute could not be resolved. A day before the occurrence, his daughter had come to them and told that her in-laws i.e. mother-in-law and husband persistently kept on harassing her. In the evening Hardial Singh @ Najam took his daughter on motorcycle and

while returning, he threatened her that he would not spare her. On 30.04.2021, some one from the village Gheri Buttar informed that the dead body of his daughter is hanging in the room of her matrimonial home. On hearing the same, they rushed to the matrimonial home of his daughter and found his daughter hanging from the ceiling fan. It was alleged that his daughter was strangled by Hardial Singh @ Najam in connivance with his mother Baldev Kaur and her dead body was hanging from the fan in order to show it to be a case of suicide. Prayer was made to register the FIR and take legal action against the culprits. On the basis of the complaint, FIR was registered and investigation commenced. Petitioner was arrested on 01.05.2021. He approached the Court of learned Additional Sessions Judge, Bathinda praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge declined the same vide his order dated 31.10.2022. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

It has been vehemently contended by counsel for the petitioner that the petitioner was married with the deceased about 15 years ago. He submits that except the bald allegations made by the complainant who is the father-in-law of the petitioner, there is no evidence to substantiate that the petitioner had ever harassed the deceased. He has submitted that the dispute between the husband and wife are normal wear and tear of the matrimonial life and the same was not sufficient to lodge the case of murder against the petitioner. He has submitted that the allegations are totally false and fabricated. He has further submitted that the deceased committed suicide by hanging which is evident from the allegations made in the FIR. To buttress his arguments, he has submitted that the postmortem of the deceased was conducted and as per the opinion, the doctors ascertained the cause of death

to be Asphyxia due to hanging. He has submitted that the oral version of the prosecution witnesses is not medically corroborated and thus, the petitioner is being prosecuted for the offence under Section 302 IPC without there being any basis. He has submitted that at the most, the case of the prosecution is for the offence under Section 306 IPC and by no stretch of imagination, the same can be said to be the offence under Section 302 IPC. He submits that the petitioner has no criminal antecedents and out of total prosecution witnesses, two material witnesses already stand examined. He submits that the petitioner is behind bars from the last about two years and thus, he deserves to be granted bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner is admittedly the husband of the deceased and he cannot escape from the responsibility towards his deceased-wife. He has submitted that there were specific allegations of harassing the deceased since marriage and thus, complicity of the petitioner is duly established. He further submits that out of 24 prosecution witnesses, 07 witnesses have been given up and from the remaining 17 prosecution witnesses, 02 material witnesses i.e. complainant and doctor have been examined. He submits that as per the instructions, petitioner is not involved in any other case.

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

Admittedly, the petitioner is husband of the deceased. He was married to the deceased about 15 years ago and they were blessed with two daughters. As per allegations made in the FIR, body of the deceased was found hanging from the ceiling fan. The postmortem was conducted and cause of death has been ascertained to be Asphyxia due to hanging.

Dr. Tanupreet Kaur has been examined by the trial Court as PW-2 who had

deposed before the Court that as per the opinion of the board, cause of death in this case was asphyxia due to hanging which was sufficient to cause death. Whether the case of the prosecution would fall under Section 302 IPC or 306 IPC would be determined by the trial Court on the basis of material placed before it.

This Court would refrain itself from commenting on the merits of the case. However, petitioner is behind bars for the last 02 years. Two material witnesses i.e. complainant and doctor have been examined. There is nothing on record to show that the petitioner has any criminal antecedents. 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 to the petitioner. 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.

11.05.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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