

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

222

CRM-M-23640-2023

Date of Decision: 15.05.2023

Jagbir

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Raman Chawla, Advocate for the petitioner

Ms. Priyanka Sadar, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking grant of concession of regular bail in FIR No.314 dated 14.06.2022 under Sections 304-B, 498A, 406 & 34 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Narnaund, District Hisar.

2. A Coordinate Bench of this Court, after noticing case of prosecution and arguments of petitioner, vide order dated 21.04.2023 has granted concession of regular bail to mother of the petitioner. The relevant extracts of order dated 21.04.2023 read as under:-

“As per factual matrix, a complaint was lodged on the statement of Krishan son of Phul Chand, wherein it was alleged that he married his daughter Sonia (deceased) with Jagbir son of Chander Bhan on 5.3.2018. He gave sufficient dowry to his daughter, however, soon after the

marriage his daughter was being harassed by her husband, mother-in-law Santra i.e. the present petitioner, sister-in-law for bringing insufficient dowry and to bring a motorcycle. His daughter used to be beaten for dowry also. His daughter was blessed with two daughters who were 3 years and 1 ½ years of age. About 5-7 days prior to the occurrence his daughter came to her parental home and disclosed about the atrocities being faced by her in her matrimonial home at the hands of her in-laws. An evening prior to the incident her daughter talked to her husband and she was under depression. Thereafter, he found that froth was coming from her mouth and hence they immediately shifted her to the Metro Hospital where she was declared dead. It was alleged that his daughter had committed suicide by consuming poison as she was being harassed by her in-laws. A request was made to take legal action against the culprits.

On the basis of the complaint, present FIR was lodged and investigation commenced. Postmortem of the deceased was conducted and statements of the witnesses were recorded. On completion of investigation challan was presented in the court concerned. Petitioner, who is mother-inlaw of the deceased was arrested on 28.6.2022. She approached the court of learned Addl. Sessions Judge-cum-Judge, Special Court for Heinous Crime Against Women, Hisar for grant of bail, however, after hearing the parties, the same was declined vide order dated 11.10.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner, who is 70 years of age, has been

falsely implicated in the present case being the mother-in-law of the deceased. He submits the death took place after 4 years of marriage. It is submitted that deceased was not even present in the matrimonial home at the time of occurrence rather she was at her parental home. It is further submitted that the suicide note produced by the prosecution is also planted by the complainant side and the same has not been verified till date. It is submitted that there are every chance that the recovered suicide note is a forged one. Counsel submits that deceased left behind two minor daughters who are at the mercy of their relatives. It is submitted that husband of the petitioner is already paralytic and father of the daughters is also behind bars. Counsel submits that the bald allegations of dowry have been levelled in the FIR and thus the presumption under Section 107 IPC is not attracted in this case and no offence under Section 304-B IPC is made out against the petitioner. It is submitted that in the overall facts and circumstances of the case petitioner deserves to be granted bail.

On the other hand, learned State counsel on instructions from ASI Mahinder Singh has opposed the submissions made by counsel for petitioner. It is submitted that there are specific allegations against the petitioner, who is mother-in-law of the deceased. It is submitted that from the reading of the allegations made in the suicide note complicity of the petitioner is writ large, however, State counsel submits that both the minor daughters of the deceased are presently living with their maternal grandfather (Nana). It is submitted that son of the petitioner is also behind bars. It is further submitted

that in all there are 23 prosecution witnesses, however, their examination is yet to commence and the next date before the learned Trial Court is 9.5.2023. It is submitted that petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner, who is mother-in-law of the deceased is behind bars since 28.6.2022. The deceased committed suicide by consuming poison after about 4 years of marriage. At the time of occurrence deceased was at her parental home. It is submitted that minor daughters of the deceased are with their maternal grandfather (Nana). The father of the minor daughters i.e. husband of the deceased is also behind bars and therefore both the minor daughters are on the mercy of their relatives. There is nothing on record to show that petitioner has any criminal antecedents.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.”

3. Custody certificate dated 14.05.2023 filed by respondent-State is taken on record. As per custody certificate, the petitioner is in custody since 16.06.2022 and he is not involved in any other offence.

4. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 23 witnesses, none has been examined. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

5. Considering the detailed order passed by Coordinate Bench of this Court in the case of co-accused, the fact that no witness out of 23 witnesses has been examined, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

15.05.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>