

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

CRM-M-27279-2022

Date of decision : 21.03.2023

Dalbir Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gagneshwar Walia, Advocate for the petitioner.

Ms. Jasleen Kaur Sidhu, DAG, Punjab.

Mr. Gurmohan Singh Bedi, Advocate and
Mr. Pawandeep Singh, Advocate for the complainant.

MANOJ BAJAJ, J.

Petitioner has filed this second petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.13 dated 22.03.2020 registered under Sections 302, 34 and 120-B Indian Penal Code, 1860 at Police Station Kotli Surat Mallian, Police District Batala.

The above FIR was registered on the basis of the statement of complainant, Charanjeet Singh who alleged that on 21.03.2020, his daughter, namely, Akwinder Kaur was married to Avtar Singh and sufficient dowry was given at the time of marriage. After about 2-3 months of marriage, his son-in-law, namely, Avtar Singh went to Dubai, who used to harass and maltreat his daughter, and continued to threat her on phone that he will not keep her and will kill her, if, she does not go to her parental home. On 2-3 occasions, complainant along with his family members went to the matrimonial home of his daughter and got the matter compromised. About 15 days back, Dalbir

Singh (father-in-law), Jagir Kaur (mother-in-law), Prabhjot Kaur (Sister-in-law), Kamaljit Singh (brother-in-law) and Kiranjit Kaur (sister-in-law) of complainant's daughter had given beatings to Akwinder Kaur. They used to pressurize her to leave matrimonial home and in this regard his daughter had informed him telephonically. As per allegations, the members of her in-laws family maltreated her and threatened to kill her, if, she does not go to her parental home. Thereafter, her father-in-law made phone call to complainant to inform that his daughter being unwell is not speaking. On receiving the call, complainant reached at Village Bariar and found that his daughter was taken to Civil Hospital, Kalauar, and upon reaching there, they saw that his daughter was lying in a car bearing No.PB-06Z-4106, with abrasions on her mouth. It was alleged by the complainant that his daughter was killed by her in-laws family by strangulating her.

Learned counsel for the petitioner has argued that the petitioner is approximately 69 years, who is in custody and has been falsely implicated in this case. He submits that as per the prosecution case, complainant's daughter died of strangulation, but there is no evidence to show that the victim was strangulated as there is no injury on her neck. In this regard, he has invited the attention of the Court to the postmortem report 22.03.2020 (Annexure P-2). He submits that as far as the medical opinion in respect of homicidal death of victim is concerned, there are conflicting opinions and in support of his argument, he relies upon the opinion of the Medical Board, Civil Hospital Batala, wherein doctor opined that the possibility of the manner of death in this case being natural cannot be ruled out. In this regard, he has invited the attention of the Court to SIT report (Annexure P-2), wherein the petitioner-

Dalbir Singh was found to be innocent. He submits that in the given facts, further custody of the petitioner may not be necessary, therefore, he be released on bail.

On the other hand, the prayer is opposed by learned counsel for the State assisted by Mr. Gurmohan Singh Bedi, learned counsel for the complainant and ASI Harjeet Singh, who has argued that the offence is serious in nature. According to the State counsel, the occurrence took place in the house of the petitioner and the opinion by the Medical Board, Civil Hospital, Batala cannot be relied upon, which is contrary to the postmortem report. She has argued that the death of the victim is not at all natural and the report of the Special Investigation Team, whereupon the supplementary report under Section 173 (8) Cr.P.C was filed has not been believed by the trial Court and charges against the petitioner-accused were framed for the offence punishable under Section 302 IPC etc. She has pointed out that the examination-in-chief of complainant-Charanjeet Singh has been conducted and further his cross examination is yet to be concluded. She prays that the petition be dismissed.

Upon hearing learned counsel for the parties and considering their rival submissions, it transpires that as far as the place of occurrence relating to the death of victim-Arwinder Kaur is concerned, there is no dispute that she died at her matrimonial house. A perusal of the postmortem report dated 22.03.2020 (Annexure P-3) reveals the injuries noticed upon the person of the deceased and the same read as under:-

<i>S.No.</i>	<i>Injuries</i>	<i>Marked</i>	<i>Injury Number</i>
<i>1.</i>	<i>Lips are reddish blue coloured and swollen. Blood stained fluid is coming out. On examination, on reflecting the lower lip, two lacerated wound measuring 0.2x0.3 and 0.3x0.1 cm, 0.4 cm apart are present on the right side of mucosal</i>	<i>Yes</i>	<i>1</i>

<i>surface is present against the lateral incisor and canine of right side of lower jaw. Clotted blood present. Impressions of teeth are present on the mucosal surface of lower and upper lip.</i>		
---	--	--

A perusal of the above *prima facie* indicates that the victim was subjected to use of force and even the impression of teeth were found present on the mucosal surface of lower and upper lip. There is no injury noticed on the neck of the deceased. Subsequently, upon receiving the chemical examiner report bearing No.3704 dated 24.09.2020, the cause of death was described as asphyxia due to smothering, which was sufficient to cause death in a normal course of nature.

Now analyzing the subsequent opinion by the Medical Board, Civil Hospital, Batala describing the possibility of death of victim as natural, whereupon the report of SIT in favour of petitioner/accused is founded reads as under:-

“Considering the investigation done by the SIT as already mentioned in the previous application, the possibility of the manner of death in this case being natural cannot be ruled out. But the final confirmation regarding the manner of death is to be confirmed by the investigating officer considering the postmortem report, the report of SIT and other circumstantial evidence.”

A reading of the above report suggests that the above opinion is not conclusive and is subject to the final confirmation by the investigating officer as well as the postmortem report, report of SIT etc. No doubt, the above opinion was relied upon by SIT to declare the petitioner innocent and despite filing the supplementary report under Section 173(8) Cr.P.C., the trial Court proceeded to frame the charges against the petitioner, therefore, at this stage, no importance can be attached to this medical opinion as the evidenciary value

of it would be seen by the trial Court in the light of the entire prosecution evidence. Since the material witnesses are yet to be examined, therefore, at this stage, this Court is not inclined to extend the concession of regular bail to the petitioner.

Resultantly, without meaning any expression of opinion on the merits of the case, no case is made out for releasing the petitioner on regular bail.

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

21.03.2023
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No