

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRM-M-29346-2022

Date of Decision: 01.05.2023

Jagsir Singh

...Petitioner

Versus

State of Punjab

...Respondent

And

CRM-M-48565-2022

Sukhwant Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Manoj Kumar, Advocate for the petitioners

Mr. Shiva Khurmi, AAG, Punjab
(assisted by ASI Kuldeep Singh)

Mr. Arsdeep Singh Brar, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

1. Through this common order, CRM-M-29346-2022 and CRM-M-48565-2022 are disposed of as both are interconnected and are arising out of same FIR.

2. The petitioners through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') are seeking concession of regular bail in FIR No.17 dated 24.02.2022 under Sections 306 & 120-B of Indian Penal Code, 1860 (for short 'IPC') (Sections 306 of IPC was deleted later on and Section 304-B of IPC was added later on vide

DDR No.20 dated 27.02.2022 in the case of Jagsir Singh and vide DDR No.36 dated 16.07.2022 in the case of Sukhwant Kaur) registered at Police Station Smalsar, District Moga.

3. The case of the prosecution is that petitioners are parents-in-law of the deceased. Father of the deceased lodged a complaint alleging that parents-in-law of the deceased were demanding dowry and they were asking for *Scorpio* car whereas he had given *Brezza* car on the occasion of marriage. The FIR was initially registered under Section 306 of IPC, however, later on vide DDR dated 16.07.2022 & 27.02.2022 Section 306 of IPC was deleted and Section 304-B of IPC was added. The marriage of the deceased with son of the petitioners was solemnized on 07.01.2020.

4. Learned counsel for the petitioners and learned counsel for the complainant are *ad idem* that petitioners were having agricultural land in the State of Rajasthan. They sold aforesaid land and purchased another piece of land in the name of the deceased.

The complainant during the course of investigation handed over one pen drive to Investigating Officer. The State in its reply has confirmed contents of pen drive and made it a part of challan. This pen drive contains conversation between brother-in-law (husband of *nanad* of the deceased) and maternal uncle of the deceased. In the conversation, husband of the *nanad* of the deceased is fighting on account of sale of land in Rajasthan and further purchase of land in the name of deceased.

5. Learned counsel for the petitioners, *inter alia*, contends that petitioners after selling their ancestral land had purchased land in the name

of the deceased which shows their *bona fide* act and conduct. Had they been demanding dowry in the form of *Scorpio* car, there was no question of purchase of land in the name of deceased. The daughters of the petitioners and their husbands were demanding their shares which disturbed the deceased and she committed suicide. The petitioners are in custody since 27.02.2022 and they are not involved in any other offence. They are more than 50 years old. The petitioners have been wrongly implicated in the commission of alleged offence. The petitioners are permanent resident of District Moga. The petitioners have deep roots in the society. There is no possibility of flee from justice.

6. Learned counsel for the complainant opposes the grant of bail to the petitioners.

7. Custody certificates dated 29.04.2023 is taken on record. As per custody certificates, the petitioners are in custody since 27.02.2022 and they are not involved in any other offence.

8. Learned State counsel submits that police report has already been filed and charges stand framed. He further submits that out of 21 witnesses none has been examined. The petitioners are involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

9. In the case in hand, the petitioners are in custody since 27.02.2022 and they are not involved in any other offence. They had purchased land in the name of deceased, thus, debatable issues would arise qua demand of dowry and commission of offence punishable under Section

304-B IPC. The Trial Court yet has to return definite findings on the disputed issues. There are 21 prosecution witnesses and till date none has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

10. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petitions deserves to be allowed and accordingly allowed. The petitioners are ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

11. 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

01.05.2023
Mohit Kumar

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