

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

230

CRM-M-29591 of 2023

Date of Decision:06.07.2023

Mohd. Kaif

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Altaf Hussain, Advocate,
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana

Mr. Tushar Gautam, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a sixth petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.147 dated 18.06.2020, under Sections 306/34 IPC, registered at Police Station Pinangwan, District Nuh.
2. It will not be out of place to mention here that earlier three bail petitions were dismissed on merits and two were dismissed as withdrawn.
3. As per the allegations contained in the FIR, a complaint was lodged by one Akram son of Abdul Salem, resident of village Flandi, Tehsil Punhana and it was alleged that his daughter was a student of 10+2 class and that on 18.06.2020 at

about 2:00 AM his daughter committed suicide by hanging in the room with the help of a *Chunni*. The complainant was earlier told by his daughter about six months before the incident that the present petitioner used to follow her at the time of coming and going to the school and also used to see her with bad intention to which he had told her that he will make the petitioner understand as the petitioner was in their relation. However, the petitioner did not stop and rather the daughter of the complainant kept on complaining continuously. Furthermore, since the last one month the petitioner was continuously giving threats to the complainant that he was having nude photographs and CD of the deceased girl with him and he will put these photographs on the internet and therefore the daughter of the complainant was under lot of pressure and due to shame she had also stated to the wife of the complainant on many occasions that if all this happens then she will commit suicide. On 08.06.2020, in the night the petitioner came to their house and tried to open the lock of the gate and in the meanwhile the mother of the complainant woke up and interrupted him upon which he ran away. However, at about 2:00 AM in the morning, the wife of the brother of the complainant woke up and she found that the deceased girl was not there and she immediately informed the wife of the complainant regarding the same. When they looked at the door of the room, it was opened and the deceased girl was hanging with the help of a *Chunni* which was tied on the other side of the roof. It has been further stated in the FIR that on 16.06.2020, the petitioner had come present in front of the house of the complainant and stated that although they had not called them but he has many photographs and other things which will be put on the internet because of the aforesaid shame his daughter took this step.

4. Learned counsel for the petitioner submitted that the petitioner is in custody from 09.07.2020 which is almost 3 years and 3 prosecution witnesses out of 14 have already been examined. He submitted that the trial of the case is taking long time and it was a case where there was no abetment to commit suicide by the petitioner but it was because the relationship of the petitioner with the deceased girl which was not accepted by her parents. He submitted that the petitioner is innocent and is not involved in the aforesaid offence. Learned counsel also referred to the judgments of the Hon'ble Supreme Court in **Kashmira Singh versus State of Punjab** 1997 (4) SCC 291 to contend that when there is a long incarceration then bail should always be granted by the Courts even in serious offence and in **Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya versus National Investigation Agency** (Criminal Appeal Nos(s). 1525 of 2021 arising out of SLP (Criminal) No(s).6858 of 2021) to contend that under the Constitution of India speedy trial is imperative and the undertrial cannot indefinitely be detained pending trial.

5. On the other hand, Mr. Vishal Kashyap, learned DAG, Haryana vehemently opposed the grant of bail to the petitioner on the ground that even if the petitioner has faced incarceration for almost 3 years but now three prosecution witnesses out of 14 have already been examined and therefore the trial is progressing. He submitted that it is a case where the petitioner had been making threats to the deceased girl and her family members that the nude photographs of the deceased girl will be put on the internet and there is a strong apprehension that in case the petitioner is released on bail, then he may use those photographs, if any,

and misuse the same by which irreparable loss and injury will be caused to the family of the deceased girl. He submitted that at the time of investigation despite best efforts being made, the mobile phone belonging to the petitioner was not handed over by the petitioner to the police deliberately and in case the petitioner is now released on bail, then he may use the phone and make misuse of the photographs, if any, and therefore the petitioner does not deserve the concession of bail considering strong apprehension in regard to the above.

6. Mr. Tushar Gautam, learned counsel appearing on behalf of the complainant and he has also expressed similar apprehension that since the mobile phone of the petitioner has not been recovered by the police and considering the threats given by the petitioner earlier before his arrest not only to the deceased but to the family member of the deceased also, as aforesaid, there is every possibility that he may misuse the photographs, if any, and has also vehemently opposed the grant of bail to the petitioner since it may cause irreparable loss and injury to the family members of the deceased.

7. I have heard learned counsel for the parties.

8. Although the petitioner has already faced incarceration for almost 3 years but as per learned counsel for the parties, three prosecution witnesses out of 18 have already been examined. As per the facts and circumstances and the allegations contained in the FIR, the strong apprehension expressed by learned State counsel as well as by learned counsel for the complainant, cannot be ignored and does carry weight.

9. The judgments relied upon by learned counsel for the petitioner as aforesaid are distinguishable on facts. The Hon'ble Supreme Court in *Kashmira*

Singh's case (supra) was dealing with the case where the appellant has been convicted by the Hon'ble High Court which was assailed in the Hon'ble Supreme Court and considering the fact that the SLP was admitted and it may take long time in deciding the SLP that the bail was granted to the appellant in that case. So far as the second judgment relied upon by learned counsel for the petitioner in *Ashim @ Asim Kumar Haranath Bhattacharya @ Asim Harinath Bhattacharya @ Aseem Kumar Bhattacharya's* case (supra) is concerned, the same is also distinguishable since there is no dispute with regard to the proposition that speedy trial is imperative right and slow trial affects the rights of the accused. However, in the present case three prosecution witnesses have already been examined. Apart from the same, the gravity and magnitude of the offence pertaining to the allegations and the strong apprehension expressed by learned State counsel and learned counsel for the complainant, disentitles the petitioner for grant of bail.

10. Therefore, considering the gravity and magnitude of the allegations involved in the present case and considering the aforesaid totality of facts and circumstances, this Court does not deem it fit and proper to grant bail to the petitioner. Consequently, finding no merit in the present petition, the same is dismissed.

11. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

July 06, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No