

CRM-M-30131-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30131-2023 (O&M)
Date of decision : 06.09.2023

Rajender Singh & Anr. ... Petitioner(s)

Versus

State of Haryana ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Abhimanyu Singh, Advocate for the petitioners.
Ms. Mayuri Lakhanpal Kalia, DAG Haryana.
Mr. Sanjiv Kumar Yadav, Advocate for the complainant.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioners in FIR No.20 dated 28.01.2020 under Sections 304-B, 323, 406, 498-A of the Indian Penal Code, 1860 (Section 34 of IPC deleted later on and Sections 323, 406 and 498-A added later on) registered at Police Station Loharu Bhiwani, District Bhiwani.
2. It is to be noticed that though Section 302 IPC has not been mentioned in the heading of the petition, however, the same stood added as per learned counsel for the State.

3. Learned counsel for the petitioners would contend that the petitioners are the in-laws of the deceased and that the deceased and her husband were staying in Rajasthan and had come to Loharu, District Bhiwani i.e. residence of the petitioners to celebrate the birthday of their child. Learned counsel would further contend that the main accused - Parvinder Singh i.e. the husband of the deceased - has been granted bail by the Trial Court vide order dated 20.07.2020 (Annexure P-8). It is further the contention that the petitioners were summoned under the aid of Section 319 CrPC and they have already been in custody for a period of 03 months.

4. Learned counsel for the State has filed the status report by way of affidavit of Ashok Kumar, HPS, Deputy Superintendent of Police, Loharu, District Bhiwani, Haryana wherein it has been stated that in the FIR the allegations were that the complainant i.e. father of the deceased has alleged that on 27.01.2020 at about 10.00 am the petitioner No.1 herein informed him over the telephone that both his daughter and son-in-law had consumed some tablets and that he was taking them to the hospital for treatment. At about 12.30 pm the brother-in-law of Parvinder Singh (husband of the deceased) informed him that his daughter Sunita had died. It is the allegation in the FIR that the deceased was being harassed for dowry and that she was being tortured and ill-treated in her matrimonial home. Learned counsel for the State has further pointed out that both the petitioners had joined investigation and their statements were recorded and it was stated that on 26/27.01.2020 a quarrel took place between the deceased and their son - Parvinder Singh - and the deceased committed suicide. Thereafter, the

in-laws took the deceased to various hospitals for treatment but despite their best efforts, she could not be saved.

5. Learned counsel for the complainant has pointed out that the petitioners had challenged the order passed under Section 319 CrPC summoning them as additional accused by filing a petition being CRR-185-2023 and the same was dismissed by a detailed order dated 29.03.2023 (Annexure P-7). Learned counsel for the complainant has also pointed out that the child in the present case was 05 years of age at the time of the incident and initially her statement was recorded under Section 164 CrPC wherein she has stated that her father killed her mother and that the father first sat on the stomach of the mother and the grand-mother held the hands of her mother and the grand-father held the mother's feet and then her father took a *chuni* and strangled the mother. Learned counsel has further pointed out that initially after the incident the custody of the child was with the petitioners and thereafter the Child Welfare Committee, Bhiwani temporarily handed over the custody of the child to the maternal grandparents and aunt. Subsequently, the custody was again handed back to the petitioners. The Child Welfare Committee, Bhiwani also recorded the statement of the child on 10.04.2020 wherein the child is said to have stated that her mother had died by hanging from a ceiling fan. Learned counsel for the complainant has also pointed out that surprisingly the statement of the minor child recorded under Section 164 CrPC does not even find mentioned in the status report. Learned counsel for the complainant has also pointed out that a petition (CRM-M-4524-2023) for cancellation of the bail of the co-

accused - Parvinder Singh (son of the petitioners) - has also been filed which is pending before this Court for 12.09.2023.

6. I have heard learned counsel for the parties.

7. In the present case the FIR has been registered under Sections 304-B, 323, 406, 498-A of IPC. At a later point, Section 302 IPC was also added. The present petition does not make any reference to Section 302 IPC having been added at a later point of time. Though learned counsel for the petitioners has stated that the same was subsequently added and hence does not find mentioned in the petition, however, there appears to be no application on the file for addition of the said section in the petition. The son of the petitioners was granted bail vide order dated 20.07.2020. In the said order attached as annexure P-8 with the petition, the addition of Section 302 IPC does not find mentioned, hence, the petitioners cannot claim parity.

8. The deceased in the present case, as per learned State counsel on instructions from SI Varinder Singh, was taken to the hospital by the petitioners. However, learned State counsel is not able to point out from the police file any document pertaining to the hospitalization of the deceased prior to her death. Rather, the postmortem report reveals that the body was taken by the police and the reason for the death as per the information supplied by the police was “*goli voli ya gala dabakar*”. Though as per the statements of the petitioners when they joined investigation the deceased is stated to have died by hanging from a *chuni*, however, there are four marks of injury on her body and ligature marks found are varying between 0.5 to 1.5 cm. The ligature marks read as under :

“A reddish ligature mark of width varying between 0.5. to 1.5 cm was present over the neck more so over visible on left side of neck situated 7 cm below to chin in anterior midline. It was faintly visible on right side. The ligature mark on both sides is directed upwards and backwards. The ligature mark was situated over the upper part of thyroid cartilage situated 7 cm below the chin in the anterior midline. On the right side, it was situated 4 cm below the right angle of mandible and terminates at the right mastoid region where it merges in to the posterior hairline. On the left side, it was situated 2.5 cm below left angle of mandible and terminates 3 cm below the left ear lobe after that it was faintly visible. On dissection, underlying subcutaneous tissues were ecchymosed. On further dissection, laryngotracheal structures were found congested below the external mark”

There was also no saliva found dribbling from the mouth and infact mouth and the eyes were both closed. The deceased is also stated to have consumed aluminium phosphate, however, cause of death has been given as asphyxia and venous congestion due to constrictive force around the neck by ligating material. The FSL Report also states that the deceased had consumed aluminium phosphate. As per the information available after inhalation exposure, to aluminium Phosphate patients commonly have airway irritation

and breathlessness. Other features may include dizziness, easy fatigability, tightness in the chest, headache, nausea, vomiting, diarrhea, ataxia, numbness, paraesthesia, tremor, muscle weakness, diplopia and jaundice. In severe inhalation toxicity, the patient may develop acute respiratory distress syndrome (ARDS), cardiac failure, cardiac arrhythmias, convulsion and coma, and late manifestation of hepatotoxicity and nephrotoxicity may also occur. A person who is found to have consumed aluminum phosphate, as confirmed from the FSL Report, the chances of that person then trying to hang herself would be rather remote. In any case these are questions which will be gone into at the time of trial. The allegations in the present case are very serious in nature.

9. In view of the above, I do not find this to be a fit case for grant of regular bail to the petitioners. Accordingly, the present petition is dismissed. Pending applications, if any, also stand disposed off. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

06.09.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO