

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

CRM-M-34784-2022

Date of decision : 29.11.2023

Honey Kumar**.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********Present :- Mr. T.P.S. Tung, Advocate
for the petitioner.Ms. Akshita Chauhan, DAG, Punjab assisted by
ASI Balbir Singh, PS City Rajpura, District Patiala.Mr. Jatinder Kumar, Advocate for
Mr. Abhinav Gupta, Advocate
for the complainant.*********RAJESH BHARDWAJ, J. (Oral)**

Petitioner has approached this Court by way of present second petition praying for grant of regular bail in case FIR No.0052 dated 17.03.2021, under Section 346 of IPC, Sections 306, 498-A IPC added and Section 346 IPC deleted later on at Police Station City Rajpura, District Patiala.

Adumbrated facts of the case are that the statement of the petitioner who is the husband of deceased Rubey and father of the child Bhumika was recorded. It was alleged that he got married with Rubey in April, 2016 and thereafter, they were blessed with a daughter namely, Bhumika who was 1½ years of age on the day of incident. He alleged that on 13.03.2021 at about 04:30 PM his wife along with the daughter left home however, she did not return. He and his family started searching for them but failed to trace them out. It was alleged that some unknown

persons have kept them in illegal custody and thus, the request was made that legal action be taken against the culprits. On the basis of the statement, formal FIR was registered and the investigation commenced. On 18.03.2021 dead body of deceased Rubey was recovered from the canal however, child Bhumika could not be recovered till date. The family of deceased Rubey lodged a complaint against the petitioner suspecting him to be involved in eliminating Rubey and her daughter Bhumika. During investigation, petitioner was arrested on 15.04.2021. He approached the Court of learned Additional Sessions Judge, Patiala praying for grant of bail. However, the same was declined vide order dated 19.05.2021. Aggrieved by the same, petitioner earlier approached this Court by way of filing CRM-M-22537-2021 however, the same was dismissed as withdrawn vide order dated 20.07.2021. Hence, the petitioner is before this Court by way of present second petition.

It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in this case being husband of the deceased Rubey and father of Bhumika. He has submitted that it was the petitioner who lodged the missing report of his wife and daughter. He submits that his in-laws have levelled false allegations against him and hence, he was falsely implicated in this case and hence, he is behind bars from last about 02 years and 07 months. It is submitted that from the postmortem of the deceased, it is apparent that the deceased committed suicide as the cause of death had been opined to be asphyxia due to anti-mortem drowning. He submits that the material witnesses including the complainant has already been examined. It is also submitted that petitioner has no criminal antecedents and thus, in the facts and

circumstances of the case, petitioner deserves to be granted bail.

Per contra, learned counsel for the complainant has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that as per postmortem, the deceased was found to have been caused a head injury which was anti-mortem in nature. He submits that the dead body of the child till date has not been recovered. He submits that the deceased was being harassed physically and mentally from the last 2-3 years prior to the incident. He has submitted that the petitioner is responsible for the murder of Rubey and her daughter and thus, he does not deserve the concession of regular bail.

Learned State counsel has also opposed the submissions made by counsel for the petitioner. She submits that the petitioner is husband of the deceased Rubey and father of Bhumika. She, on instructions from ASI Balbir Singh, further submits that there are specific allegations against the petitioner regarding harassment caused to the deceased prior to her death. She submits that out of 19 prosecution witnesses, 08 witnesses including the complainant have been examined. She has also apprised the Court that as per her instructions, petitioner is not involved in any other case.

I have heard counsel for the parties and perused the record.

Evidently, petitioner is husband of the deceased Rubey and father of Bhumika. Originally the FIR was registered on the statement of petitioner however, during investigation, he was found to be the accused for the offence. Though learned counsel for the complainant has levelled the allegations regarding murder of the deceased however, as submitted before this Court, petitioner is being prosecuted for the offence under

Sections 306 and 498-A IPC. Petitioner is behind bars from the date of his arrest i.e. from 15.04.2021 and thus, he has suffered incarceration of about 02 years 07 months. There is nothing on record to show that petitioner is involved in any other case.

This Court would refrain itself from commenting anything on the merits of the case as the same lie in the domain of the trial Court which would be assessed by it on the basis of the evidence to be produced before it. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

29.11.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No