

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

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CRM-M-30849-2023 (O&M)
Date of decision: 18.12.2023

Pardeep @ Pala Ram**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. P. S. Jammu, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

Mr. Santosh Kumar Yadav, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. CRM-51145-2023

Allowed as prayed for.

Documents are taken on record as Annexures P-1 to P-3.

2. CRM-M-30849-2023 (O&M)

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 460 dated 09.12.2021, registered under Sections 498-A and 304-B of the IPC at Police Station Ellenabad, District Sirsa.

3. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the

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statement of complainant Rajesh alleging therein that his daughter Jyoti was married with the present petitioner about 5-6 years back. The petitioner and his family members were not happy with this matrimonial alliance and they used to taunt them by saying that she was not worthy of the petitioner and she was also harassed by them on account of bringing insufficient dowry, though the complainant had given many articles to her in dowry. The victim had given birth to two female children and after birth of her second daughter, the behavior of the petitioner and his family members had even worsened, due to which, a *Panchayat* was convened by the family members of the complainant and then, the petitioner had taken the victim along with him. He alleged that on 09.12.2021, the victim had called him on phone and had informed that she was being harassed by the petitioner and his family members on account of demand of dowry. On the same day at about 11:30 AM, the complainant received a call from the brother of the petitioner that the victim was sick and was vomiting. The complainant firstly sent his son and then he himself reached at the hospital, where he found his daughter to be dead. He alleged that the petitioner and his family members had killed his daughter by administering some poisonous substance. After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 14.12.2021. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in Court and presently the petitioner is facing trial for commission of aforesaid offence. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 30.05.2023.

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4. The present petition has been filed by the petitioner on the ground and his counsel has vehemently argued that the petitioner has been falsely implicated in this case. Though, in his examination-in-chief, the complainant had made deposition against him but during cross-examination, he has totally exonerated the petitioner from the allegations, which had been levelled against him as he stated that the victim was having some problem in her abdomen and she had taken Sulfas tablets inadvertently presuming the same to be her medicine and has further stated that the petitioner and his family members were not responsible for causing her death. Even PW-2 Narender, brother of the victim, and PW-3 Rajiv, cousin brother of the victim, have not implicated the petitioner in the commission of offences, for which, he has been chargesheeted. It is submitted that he is in custody since 14.12.2021. His further incarceration would not serve any useful purpose. The trial is likely to take some time. Hence, it is prayed that the present petition deserves to be allowed.

5. Learned State counsel has filed the custody certificate of the petitioner, as per which, he is in custody for a period of 02 years and 04 days. He has argued that since there are serious allegations against the petitioner, the present petition is liable to be dismissed.

6. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

7. As per allegations, the petitioner and his family members had caused dowry death of the victim by harassing her on account of demand of dowry, due to which, she had consumed some poisonous substance and had ended her life. The brother and cousin brother of the victim, while appearing

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in the witness box, have not supported the prosecution version as is revealed from a perusal of copies of the their statements as produced on record. Even the copy of the statement recorded by the complainant has also been placed on record, a perusal of which shows that though in his examination-in-chief, he had supported the prosecution version but during cross-examination, he had taken a U turn and had totally resiled from the version as given earlier. As such, it has become debatable as to whether the testimony of the complainant, who is star witness of the prosecution, can be acted and relied upon or not? The petitioner is in custody since 14.12.2021. Keeping in view the period spent by him in custody, the nature of evidence, which has come on record in the form of statements of PW-1 to PW-3 and attendants facts and circumstances of the case, I am of the considered opinion that the petitioner deserves to be given benefit of regular bail.

8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
9. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

18.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No