

2023:PHHC:130101

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

CRM-M-31709-2020

Date of Decision: 07.10.2023

JAGTAR SINGH

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. F.S.Virk, Advocate, for the petitioner.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

Mr. Kulwinder Singh, Advocate for
Mr. Hitesh Ghai, Advocate, for the complainant.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No.18 dated 04.03.2019 under Section 304-B IPC (challan presented under Sections 302/304-B IPC) registered at Police Station Shambu, District Patiala.

2. Custody certificate has been placed on record.

3. Briefly, the FIR has been registered on the basis of the statement of Babli, the mother of the deceased alleging that the marriage of the deceased was solemnized about 10 months prior to the occurrence with the petitioner. On 02.03.2019, the deceased had made a telephonic call to the complainant and informed her that the petitioner and her sister-in-law are harassing her for dowry. The complainant visited the house of in-laws of the deceased and a compromise was effected. On the following day, she received a telephonic call from the petitioner who informed that the deceased was harassing him and asked her to visit his house. The complainant alongwith her nephew Vikas came to the in-laws' house of the deceased and saw that the petitioner had put celphos in a glass and

administering the same to the deceased.

4. Learned counsel for the petitioner contends that the version put forth by the prosecution sounds to be improbable as the poisonous substance could not be administered in the physical presence of the mother and nephew of the deceased, particularly when they were called to his house by him. Moreover, there are vague allegations with regard to demand of dowry. No specific article has been mentioned regarding which demand was raised. Besides, there are specific allegations against the sister of the petitioner but she was found innocent during the course of investigation. An application under Section 319 Cr.P.C. for summoning her as an accused was also moved, the same has been dismissed by the trial Court and revision against the said order is pending in this Court. The petitioner is in custody for a period of 04 years, 04 months and 02 days and not involved in any other case.

5. Learned State counsel and learned counsel appearing for the complainant have opposed the bail application on the score that there are categorical allegations with regard to demand of dowry and the death has occurred within a period of 10 months from the date of marriage. Moreover, the occurrence took place in the presence of the complainant and her nephew as the poisonous substance was administered by the petitioner to the deceased in their presence. It has also been submitted that during the course of her deposition in the trial Court, the complainant has specified that demand of Rs.10 lac was raised by the petitioner.

6. Learned State counsel was directed to furnish an affidavit of Gazetted Officer depicting the reasons for delay in recording the prosecution evidence as the charge was framed as back as on 13.11.2019

and out of 21, only 04 witnesses were examined.

7. Status report submitted by way of affidavit of Raghbir Singh, Deputy Superintendent of Police, Circle Ghanaur, District Patiala, has depicted the following reasons for delay in recording the prosecution evidence:-

a). The Chemical Examiner report regarding viscera of the deceased was not received from Laboratory at Karnal;

b). Non-appearance of the witnesses;

c). Adjournment was requested by the defence counsel as well as counsel for the complainant and

d). The complainant moved an application under Section 319 Cr.P.C. before the trial Court for summoning Satwinder Kaur @ Satti and the same was dismissed on 07.06.2022.

8. Subsequently, learned State counsel had sought adjournment to verify with regard to number of adjournments sought on the request of counsel for the accused.

9. Learned State counsel, on instructions from ASI Bhan Singh, submits that the adjournment was sought by the defence counsel on 19.05.2022, 26.05.2022, 06.06.2022, 07.06.2022 and 04.07.2023. It has also been submitted that on 04.07.2023, the examination-in-chief of three witnesses were recorded but none had appeared on behalf of the accused and opportunity to cross-examine them was treated as NIL.

10. Faced with this situation, learned counsel for the petitioner contends that on the application submitted by the petitioner, the aforesaid three witnesses have been cross-examined after they were recalled on the application on behalf of the petitioner.

11. It is significant to note that no specific demand has been mentioned in the statement of the complainant on the basis whereof the FIR has been registered. The allegation with regard to demand of Rs.10 lac has not been specified in such statement. The petitioner is in custody for a period of 04 years, 04 months and 02 days and not involved in any other case. It has not been disputed that till date, out of 21, only 04 witnesses have been examined. The statement of the complainant and eye witnesses to the occurrence have also been recorded and it can not be said that the petitioner, in any manner, can win over or influence them. The conclusion of trial is likely to take some time and no fruitful purpose will be served by detaining the petitioner in further custody.

12. In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

07.10.2023
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No