

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

CRM-M-32247-2023

Date of Decision: 13.07.2023

Sunny

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Naresh Kumar Ganga, Advocate, for the petitioner.

Ms. Upasana Dhawan, Assistant Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present second petition is for the grant of regular bail to the petitioner in a case FIR No.288 dated 09.09.2020, registered under Sections 304-B, 34 IPC, at Police Station Civil Lines, Sirsa, District Sirsa.

Adumbrated facts of the case are that Parveen Kumar son of Ram Chander lodged a complaint before the Police, wherein it was alleged that marriage of his niece Rajni daughter of Prem Kumar took place with Sunny (petitioner) son of late Hira Lal about six years ago. Soon after the marriage Sunny and his family started torturing his niece for demand of dowry. She used to be beaten time and again. Due to maltreatment, they gave a complaint to the Police in the year 2018. However, on 08.09.2020, at 12:00 Noon, he got information that his niece has been killed by her in-laws when she was pregnant. Request was made to take legal action against the culprits. On the basis of the complaint, a formal FIR was registered and the investigation commenced. The petitioner was arrested on 13.09.2020. Though allegations were made against the petitioner and his mother, however, on completion of the investigation, his mother was exonerated and

thus, challan was presented against the petitioner. The petitioner approached the Court of learned Fast Track Special Court, Sirsa, however, the learned Court after hearing both the sides, dismissed the same vide its order dated 20.03.2021. Aggrieved by the same, on the earlier occasion the petitioner approached this Court by way of filing CRM-M-14288-2021, however, the same was declined by this Court vide order dated 12.11.2021 on the statement of learned State counsel that all the prosecution witnesses have been examined. As the instructions provided to the learned State counsel were factually incorrect, hence, the petitioner has approached this Court again by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case on the basis of the false and frivolous allegations. He submits that the petitioner was married with the deceased about six years ago and there was no evidence whatsoever regarding harassment to the deceased on account of demand of dowry as alleged by the complainant. He submits that death of the deceased had taken place due to complication in delivery and thus, the death was not unnatural on account of harassment caused to the deceased for demand of dowry. He submits that in the peculiar facts and circumstances, offence under Section 304-B IPC is not made out as essential ingredients for drawing the presumption under Section 113-B of the Evidence Act, are not fulfilled. He submits that even otherwise the petitioner is behind bars from the last three years and till date not even a single witness has been examined by the prosecution and the statement given by learned State counsel at the time of dismissal of earlier petition that all the prosecution witnesses have been examined was factually wrong. He submits that the petitioner has no

criminal antecedents and thus, in the facts and circumstances of the case, he deserves to be enlarged on bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has vehemently contended that admittedly unnatural death of the deceased had taken place within six years of marriage. She submits that deceased died an unnatural death. She also submits that there were allegations against the petitioner regarding causing harassment to the deceased for demand of dowry and thus, presumption under Section 113-B of the Evidence Act is attributed and offence under Section 304-B IPC is made out against the petitioner. On instructions from PSI Rajinder Kumar, she submits that investigation is complete and charges are framed and in all there are 23 prosecution witnesses, however, examination of the witnesses would commence from 13.09.2023.

Heard.

Admittedly, the petitioner is the husband of the deceased and his marriage with the deceased took place six years ago. As apparent from the record, the deceased died due to abortion. Whether the death of the deceased constitute offence under Section 304-B IPC or not would be a subject of trial to be appreciated on the basis of the evidence led by respective parties before the trial Court. As submitted before this Court, in all there are 23 prosecution witnesses and none has been examined till date. It is apparent that the petitioner is behind bars for the last about three years. Needless to say that every accused irrespective of the merits of the case, has a right of speedy trial. There is nothing on record to show that the petitioner is involved in any other case. Veracity of the allegations would be evaluated by the trial Court only after appreciation of complete evidence to be led by

both the parties before it. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail 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.

13.07.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No