

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH
(207) CRM-M-37517-2022
Date of decision:- 21.07.2023

Sukhveer Singh ... Petitioner
Versus
State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. This is the second petition filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
428	26.12.2020	Sadar Sirsa, District Sirsa, Haryana	304-B, 498-A and 34, IPC

2. As per the prosecution, FIR, Annexure P-6, has been registered on the basis of a dying declaration of Binder Kaur recorded in a question-answer form in Sanjeevni Hospital, Sirsa, wherein she has alleged that her parents-in-law, husband and sisters-in-law have been harassing her and fed up with the ill-treatment, she poured oil on herself and set herself ablaze. She has requested that action be taken against them as they used to take money from her and that her husband wants to get married again. She has stated that she was not allowed to meet her son.

3. Counsel for the petitioner submits that after investigation, except for the petitioner, who is the husband of the deceased, all the other four co-

accused were found to be innocent. He submits that the prosecution has examined the parents of the deceased, her brother and other relatives. By referring to the ocular evidence, it has been argued that the relatives of the deceased have categorically deposed that she was never subjected to any harassment nor was any demand ever made from her. By referring to Annexure P-9, counsel contends that the deceased was under treatment for “mood disorders”, she had been regularly visiting a Neuropsychiatrist and her last visit was barely three months before she died. Counsel urges that the deceased was depressed and committed suicide at her paternal home. Counsel asserts that after the first petition, preferred by the petitioner, which was withdrawn on 16.12.2021, all the material prosecution witnesses have testified, but none of them have supported the case of the prosecution. He submits that the petitioner, who is not involved in any other unlawful activity and is in custody since 01.01.2021, deserves to be enlarged on bail as the prosecution evidence is not likely to conclude in the near future.

4. Opposing the petition, State counsel, upon instructions received from ASI, Sandeep Kumar, contends that the petitioner’s wife expired within seven years of marriage in unnatural circumstances and there are allegations of harassment as well as demand of dowry. He submits that the essential ingredients of Section 304-B, IPC are satisfied. Still further, he urges that the dying declaration has been recorded by a Judicial Magistrate after getting a certification from a doctor, who was present throughout. It is his argument that dying declaration is a substantive evidence and an order of conviction can be safely recorded on its basis as “Nobody would wish to die with a lie on his lips.” Still further, upon instructions, he submits that

ten out of twenty six prosecution witnesses have been examined.

5. I have heard counsel for the parties and considered their respective submissions.
6. The role ascribed to the petitioner, allegations levelled against him, sanity of dying declaration and whether the ingredients of Section 304-B, IPC are satisfied, would be matters to be adjudicated by the Trial Court on the basis of evidence adduced before it. These aspects do not require any observation from this Court for the purpose of deciding the bail petition. Suffice is to notice that the petitioner is in custody for the last more than thirty months, all the vital prosecution evidence, who are related to the deceased, have been examined and the prosecution evidence is not even half way. Considering these factors, this Court is of the view that the petitioner deserves to be enlarged on bail during the pendency of the trial.
7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.
8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

21.07.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No