

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

CRM-M-37512-2023

Date of Decision: 04.10.2023

Suraj Kumar

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Salil Dev Singh Bali, Advocate, for the petitioner.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present third petition is for the grant of regular bail to the petitioner in a case FIR No.105 dated 31.05.2022, registered under Sections 306, 34 IPC (Charges under Section 304-B IPC stands framed by trial Court vide charge sheet dated 08.12.2022), at Police Station Sadar Fazilka, District Fazilka.

Adumbrated facts of the case are that statement of complainant, namely, Jagdev Singh was recorded wherein he alleged that his elder daughter was 28 years of age and she was married to Suraj Kumar i.e. the petitioner four years ago. It was alleged that the complainant gave enough dowry in the marriage as per his capacity, however, his son-in-law Suraj Kumar and his parents were not satisfied with the same. It was alleged that his daughter was used to be harassed for bringing less dowry. It was alleged that as his son-in-law was jobless, demand of Rs.5 lacs was made from his daughter. The complainant tried to console the family of in-laws of his daughter, but the same did not work out. It was further alleged that as his daughter was being harassed repeatedly for bringing less dowry, she committed suicide by hanging. Request was made to take legal action

against the culprits. On the basis of the allegations, the FIR was lodged and the investigation commenced. Postmortem of the body was conducted and the petitioner was arrested on 31.05.2022. On completion of the investigation, parents of the petitioner were kept in column No.2 and challan was presented against the petitioner. The petitioner approached the Court of Sessions Judge, Fazilka for bail and the same was declined vide order dated 21.09.2022. The petitioner on the earlier occasion approached this Court by way of filing CRM-M-49561-2022, however, the same was allowed to be dismissed as withdrawn vide order dated 22.11.2022. Again second petition bearing No.CRM-M-32754-2023 was filed, which was allowed to be dismissed as withdrawn on 19.07.2023. Hence, the petitioner has approached this Court again by way of filing the present third petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He submits that there are bald allegations regarding the demand of dowry, which are totally beyond the evidence on record. He has submitted that the petitioner and the deceased were blessed with a daughter who is three years old and is with the family of the petitioner only. He has submitted that the unfortunate incident has taken place after four years of the marriage which was not on account of the harassment caused to the deceased as alleged. He has submitted that the FIR was initially registered under Sections 306, 34 IPC, however, later on offence under Section 304-B IPC was added. He submits that the parents of the petitioner were found innocent during the investigation, but now they have been summoned under Section 319 Cr.P.C. he submits that all the material witnesses already stand examined in this

case and the petitioner is not having any criminal antecedents. He submits that in the facts and circumstances of the case, presumption under Section 113-B of the Evidence Act is not even attracted and thus, offence under Section 304-B IPC is not made out. He further submits that in the overall facts and circumstances of the case, the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner. She has submitted that unnatural death of the deceased has taken place only after four years of her marriage. She further submits that there are specific allegations of demand of dowry from the deceased where Rs.5 lacs were demanded by the petitioner and his parents, who are now summoned under Section 319 Cr.P.C. She submits that the material witnesses, who have been examined, have duly supported the case of the prosecution. She has further submitted that from the facts and circumstances of the case, offence under Section 304-B IPC is made out against the petitioner.

Heard.

Evidently, the deceased was married to the petitioner about four years prior to the occurrence. The petitioner before this Court is the husband of the deceased. The FIR at the initial stage was registered under Sections 306, 34 IPC, however, the learned trial Court framed charges under Section 304-B IPC. As submitted before this Court out of 15 prosecution witnesses, 7 witnesses including the complainant already stand examined. Whether the presumption under Section 113-B of the Evidence Act is attracted or not is to be assessed by the learned trial Court. This Court would refrain itself from commenting anything on merits of the case as the same would lie in

the domain of the trial Court. 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 in 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.

04.10.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No