

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
207 CRM-M-44333-2023 (O&M)
Date of decision: 13.09.2023

Sher Singh

...Petitioner(s)

Vs.

State of Punjab

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Paras Jagga, Advocate
for the petitioner.

NIDHI GUPTA, J.

Prayer in the present first petition under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") is for grant of regular bail to the petitioner in case FIR No.105 dated 12.05.2023 under Section 306 IPC registered at Police Station Kotwali, District Patiala (Annexure P1).

2. FIR in the present case was registered on the basis of statement of father of the deceased. Facts of the case as contained in the FIR are as follows:-

"...FIR against Maan Singh alias Monu son of Mahendra Singh, mother-in-law Sudesh Rani wife late Mahendra Singh, Sister-in-law (Jathani) Mehak wife of Sher Singh, Brother-in-law (Jeth) Sher Singh son of Mahendra Singh, Sister-in-law (Nanad) Pammo wife of Rinku, Sister-in-law (Nanad) Mani, son-in-law Rinku residents of Sidhsar Colony near Nath Tanks Alauhran Wala Khurd Nabha, Patiala, received in the police station by hand through PHG Gurdarshan Singh, 18486, the contents of which are, "Statement of Jawant Singh, son of late Sohan Singh, resident of 44 Shessh Mahal Colony, Patiala, aged about 62 years, mobile number 9915161117.

Stated that I am a permanent resident of the above said address and I work as a labourer. I have four children, two daughters and two sons. My younger daughter Pooja @ Harjot Kaur aged about 31 years whose marriage was solemnized with Mann Singh & Monu son of Mahinder Singh resident of Sidhsar Colony near Nath Takian Wala Alauhran Khurd Nabha on 17/01/2016 that she has two children, a son, Ramneet Singh, aged about 6 years, and a daughter, Prabhjot Kaur, aged about 4 years. That a dispute has arrived in between my daughter Pooja and her husband shortly after her marriage. Due to which my daughter Pooja used to go to her in-law's house since last 6 years on the compromise and again came to us in case of dispute. That my daughter had instituted a Court case which my daughter was under stress due to non rehabilitation of matrimonial home and now she was under a lot of tension since last few days and was also a little bit upset. Yesterday on 10-05-2023 at around 08:30 A.M. she came to home after dropping the children at school and thereafter left for her duty at Amar Hospital, Patiala which she usually returned home from duty at 2.00 pm but yesterday when my daughter did not return home till 05-06 pm, then we searched for my daughter and went to Amar Hospital and on enquiry they stated that Pooja did not come on duty today, then we came to know at night that a dead body of a girl was found in the Bhakra Canal near Pasiyana, which divers sent to us as a photo which was of my daughter Pooja. That my daughter Pooja has committed suicide due to distress by jumping into the Bhakra canal. My daughter was having an old dispute with her husband regarding which court matters were also going on and on 09/02/2023 also my daughter went to her in-laws house where she was not allowed to enter in the house and there was altercation. In this regard, complaints were also given. The husband of my daughter Pooja i.e. Mann Singh above had an extramarital relation with a woman which mother-in-law Sudesh Rani wife late Mahendra Singh, Sister-in-law (Jathani) Mehak wife of Sher Singh, Brother-in-law (Jeth) Sher Singh son of Mahendra Singh, Sister-in-law (Nanad) Pammo wife of Rinku, Sister-in-law (Nanad) Mani, son-in-law Rinku residents of Sidhsar Colony near Nath Tanks Alauhran Wala Khurd Nabha, Patiala also consented with this relation. Despite repeated requests

made by my daughter Pooja they did not pay any heed due to which my daughter has committed suicide yesterday on 10.05.2023 by jumping into the canal, Nabha Road, Patiala. Mother-in-law Sudesh Rani wife late Mahendra Singh, Sister-in-law (Jathani) Mehal wife of Sher Singh, Brother-in-law (Jeth) Sher Singh son of Mahendra Singh, Sister-in-law (Nanad) Pammo wife of Rinku, Sister-in-law (Nanad) Mani, son-in-law Rinku residents of Sidhsar Colony near Nath Tanks Alauhran Wala Khurd Nabha, Patiala are responsible for the death of my daughter Pooja. Legal action should be taken against above said persons and justice should be given to us....”

3. It is inter alia submitted by learned counsel for the petitioner that the petitioner is the brother-in-law of the deceased and he was living separately from the deceased and not in the matrimonial home of the deceased. It is submitted that accordingly, allegations made against the petitioner in the FIR are false and fabricated. Learned counsel further contends that even otherwise, no specific role has been attributed to the petitioner in the present FIR and only general and omnibus allegations have been made against him in the present FIR. In fact, the entire family has been named and involved in the present FIR. Learned counsel also contends that date of incident is 10.05.2023, however, FIR has been registered after a delay of two days on 12.05.2023. It is also submitted that vide order dated 25.07.2023 (Annexure P5), this Court has already granted interim protection/anticipatory bail to co-accused Pamo @ Pardeep Kaur who is sister-in-law of the deceased,.

4. Notice of motion.

5. Mr. G.S. Dhindsa, Advocate puts in appearance on behalf of the complainant and files Power of Attorney which is taken on record. Learned counsel for the complainant submits that present petition is not maintainable as vide order dated 10.08.2023 (Annexure P3), the petitioner had sought anticipatory bail under Section 438 Cr.P.C. which was dismissed by the learned Additional Sessions Judge, Patiala.

6. Learned counsel for the petitioner counters the above said contention on behalf of the complainant and submits that perusal of Annexure P4 which is the status of the bail application filed by the petitioner, shows that the said application was filed under Section 439 Cr.P.C. and therefore, Section 438 Cr.P.C. as noted in the order dated 10.08.2023 (Annexure P3) is a typographical error.

7. Mr. Jaswinder Singh Arora, DAG Punjab accepts notice on behalf of the respondent and files custody certificate dated 13.09.2023 which is taken on record as per which the petitioner has undergone custody as under trial for 2 months. Custody certificate also reveals that there are no other cases pending against the petitioner. Learned State Counsel on instructions from ASI Lakhwinder Singh submits that challan has been prepared in the present case but has not yet been presented.

8. I have heard learned counsel for the parties.

9. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the case, including the fact that as per custody certificate no other cases are pending against the petitioner, and the fact that trial will take long

time to conclude, the present petition is **allowed**. The petitioner namely Sher Singh s/o Mahinder Singh R/o Sidhsar Colony Alhoran Khurd, Nabha, District Patiala, is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of the CJM/Duty Magistrate concerned. However, it is made clear that nothing stated above shall be deemed to be an expression of opinion on the merits of the case.

10. Pending application(s) if any also stand(s) disposed of.

13.09.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No