

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

208 CRM-M-44343-2023 (O&M)
Date of decision: 13.09.2023

Shammi Kumar ...Petitioner(s)
Vs.
State of Punjab ...Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA
Present:- Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

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.244 dated 03.10.2022 under Sections304-B, 120-B IPC registered at Police Station Gate Hakima, Amritsar City, District Amritsar.

2. FIR in the present case was registered on the basis of statement of mother of the deceased/wife of the present petitioner. Brief facts of the case as set out in the complaint are that the complainant has stated that her husband is a labourer. She has three children, her middle daughter-Shital/deceased, aged about 22 years was married to the petitioner about 03 years ago and they are having one son. At the time of marriage of the deceased, they had told the family of the petitioner that they are poor persons but they served the Baraat well. However, after

marriage in-laws of the deceased started maltreating and harassing her. The complainant had tried to make the family of the petitioner understand many times, but they did not mend their ways. About 2 ½ months ago, the deceased was beaten by her husband/the petitioner herein, and her in-law's family, however, compromise was effected. On 30.09.2022, at about 4.00 P.M., the petitioner made a phone call to the complainant and stated to her that deceased is not well and asked her to go to their house. The complainant immediately went to the house where brother-in-law of her deceased daughter namely, Sajjan, met her who took her to the hospital where her daughter was admitted in ICU but they did not allow her to meet with her daughter. On 03.10.2022, at about 9.00 PM, son of the complainant along with sister-in-law of the complainant, went to the hospital to give the meal, where it came to their notice that the daughter of the complainant has expired. It is submitted that the cause of death is by hanging. At that time, petitioner or his other family members were not present in the Hospital. Thereafter, the complainant along with her husband and other relatives reached the hospital.

3. Learned counsel for the petitioner inter alia submits that as per the version in the FIR, it is admitted that it was the petitioner and his mother and his other relatives who had taken the deceased to the hospital. It is also evident that the deceased had died in the hospital during treatment. Learned counsel submits that the petitioner has been

falsely implicated in the case. It is submitted that one child born out of the wedlock of the petitioner with the deceased is in the care and custody of the aged mother of the petitioner, and the child requires the care of his father/ the petitioner. It is submitted that the petitioner has been in custody since 03.10.2022, and no useful purpose will be served by keeping the petitioner behind bars for longer. It is stated that the charges were framed as far back as on 24.02.2023, however, till date despite the fact that 05 opportunities have been granted to the prosecution side, no witness has been examined so far. Learned counsel submits that in case the petitioner is granted bail by this Court, the petitioner undertakes not to tamper with the evidence of the prosecution or threaten the prosecution witnesses.

4. Learned counsel for the State files custody certificate dated 12.09.2023, which is taken on record. As per the said custody certificate, the petitioner has been in custody as under trial for a period of 11 months and 07 days.

5. I have heard learned counsel for the parties.

6. 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 the perusal of the above said custody certificate reveals that no other cases are pending against the petitioner; and the fact that the petitioner has already undergone custody of 11 months and 07 days under trial; and that no prosecution witness has been

examined so far; and therefore, the conclusion of trial will take long time, present petition is **allowed**. The petitioner Shammi Kumar s/o Sham Lal R/o House No.2991/14, Gali No.5, Wadda Hari Pura, Amritsar, 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.

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

13.09.2023
ps-l

(Nidhi Gupta)
Judge

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