

**Neutral Citation No.2023:PHHC:154479**  
**IN THE HIGH COURT OF PUNJAB AND HARYANA**  
**AT CHANDIGARH**

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**CRM-M-45524 of 2023**  
**Reserved on : 29.11.2023**  
**Pronounced on: 04.12.2023**

**Prem Singh**

**.....Petitioner**

**Vs.**

**State of Haryana**

**.....Respondent**

**CORAM: - HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: - Mr. Vineet Sharma for Mr. Deepak Aggarwal,  
Advocate for the petitioner.  
Mr. Parveen Kumar Aggarwal, DAG, Haryana.

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**DEEPAK GUPTA, J. (Oral)**

By way of this petition filed under Section 439 Cr.P.C., petitioner has prayed for grant of regular bail in case FIR No.777 dated 02.12.2017 registered under Sections 302/328/34 IPC at Police Station Samalkha, District Panipat.

2. Petitioner is the husband of deceased Pinki. FIR was lodged by Rajpal, father of Pinki, as per which marriage of deceased Pinki was performed with Prem Singh (petitioner) in 2002. Four daughters were born out of this wedlock. It was alleged that on 02.12.2017, petitioner along with his mother Anto Devi, brother Karan Singh and sister-in-law Santosh gave beatings to Pinki and at about 08.00 PM, administered poison to her. On getting this information, complainant reached IBMH Hospital, Panipat, where these facts were disclosed by Pinki to him and then she became unconscious. During treatment, Pinki expired. Necessary investigation was conducted. Karan Singh, Santosh and Anto Devi were arrested from time to time and final report under Section 173 Cr.P.C was filed qua them. Despite issuance of warrants of arrest against the petitioner, he could not be arrested at that time. Later on, petitioner was arrested on the basis of secret information on 05.07.2023 and sent to judicial custody.

3. It is contended by learned counsel that the petitioner was serving in the Indian Army. Prior to his arrest, he was posted in the area of Jammu and Kashmir and was on duty. Learned counsel further points out that no proclamation was ever effected against the petitioner nor any intimation was sent to the Army authorities. Further contention of learned counsel is that co-accused Karan Singh, Santosh and Anto Devi have already been acquitted vide judgment dated 18.02.2020 (Annexure P.2) passed by learned Additional Sessions Judge, Panipat, after finding that it was not a case of administering poison to the deceased, as was alleged by the prosecution. Learned counsel further points out that petitioner is in custody for the last more than four months and that the trial may take time to conclude and so, he be allowed bail.

4. Learned State Counsel opposed the bail petition by submitting that petitioner is the main accused being the husband of the deceased and that earlier his presence could not be procured despite issuance of warrants of arrest. However, it is not disputed by learned State Counsel that no proclamation was ever issued against the petitioner. He is also unable to disclose as to whether the Army authorities were ever informed about the involvement of the petitioner in the present case.

5. Having considered submissions of both the sides, this Court is inclined to grant bail to the petitioner for the following reasons.

6. Although petitioner has not faced trial so far and so any observations made by the Court in the trial pertaining to the co-accused, may not be binding qua the present petitioner but still certain observations, which pertain to the cause of death, are very necessary to notice.

7. While coming to the conclusion that prosecution had failed to prove that unnatural death of Pinki was caused by the accused and that

prosecution had failed to establish the guilt, learned Additional Sessions Judge in its judgment dated 18.02.2020 (Annexure P.2) gave the reasons in para-Nos.18 to 20 as under: -

*“18. The first and foremost reason is that the medical record do not support the version of the prosecution that the deceased was administered or given the poison by all the accused. A perusal of the MLR Ex. P18 of N.C. Medical College & Hospital, Israna goes to show that there is a report ‘intake’ of sulfas tablet. Similarly, Ex.P5 of IBM Hospital & Trauma Centre, Sanoli Road, Panipat depicts ‘ingestion’ of unknown powder from poison. Both these words clearly suggested that it was the voluntary act by the deceased (may be intentionally). However, it completely ruled out of the possibility of the involvement of any third person as it would have been in the case of administration of poison. Dr. Narayan Dabas who appeared as PW10 has even specifically stated that the cause of death was due to consumption of aluminium phosphide. Even he has not stated that the poison was administered to her. So, the medical record has nowhere suggested that the poison was administered to her against her will, rather it is more indicative towards the fact that it was voluntarily taken by the deceased.*

*19. Secondly, the aforesaid reason is further substantiated from the fact that the deceased nowhere disclosed about the said incident to any of the doctors where she was hospitalized. In this regard, reference can be made to Ex.P18 the MLR of NC Medical College & Hospital, Israna which goes to show that the patient was conscious and responding, meaning thereby she was fully alert. Similarly, Ex.P5 of IBM Hospital & Trauma Centre, Panipat goes to show that she was conscious but none of the doctors have reported that the deceased/ victim had told them that she was given poison by the accused. If she would have been given the poison by the accused, there was no reason for the deceased not to disclose that fatal information to the doctors. So, the silence on the part of the deceased in both the hospitals somehow lends support to the defence story that she had herself consumed the poison and not given by the accused.*

*20. Thirdly, the medical report specifically shows that it is nowhere recorded that the victim had sustained any external injury whereas if so she would have been overpowered by all the three accused, then there would have been at least scratches or bruises but as no such injury was noticed by the doctors during her examination, it also raises a doubt over the*

*prosecution story that she was forcibly given poison by the accused persons.”*

8. It is, thus, evident that neither any external injury on the person of deceased Pinki was found nor she was found to have been overpowered by any accused nor she had disclosed to the doctors during treatment about the manner in which poison was allegedly given to her.

9. Having regard to all the afore-said facts and circumstances of the case, but without commenting anything on the merits of the case, present petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned.

December 04, 2023  
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(DEEPAK GUPTA)  
JUDGE

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |