

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

225

CRM-M-47974-2022

Date of Decision: 17.02.2023

Narinder Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Ms. Gurpreet Kaur, Advocate for the petitioner

Mr. Digvijay Nagpal, AAG, Punjab
(assisted by ASI Balwinder Singh)**JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner, through instant petition under Section 439 Cr.P.C., is seeking regular bail in FIR No.93 dated 12.05.2022 under Section 306 of IPC, registered at Police Station Tibba, District Ludhiana.

2. The case of prosecution is that Aashish Singh lodged a complaint with police authorities alleging that his sister Sarojni was married with Narinder Kumar about 2 years back. On 10.05.2022, at about 5:00 AM his brother-in-law Narinder Singh made him a mobile call that Sarojni has committed suicide by strangling herself. He on inquiry came to know that Narinder Singh used to taunt her for not having any child due to which she used to remain under tension. His sister has committed suicide because of taunts of her husband.

3. Learned counsel for the petitioner, *inter alia* contends that brother of the deceased on 11.05.2022 appeared before police authorities and submitted that he does not want to take any action against anyone. On the basis of statement of the complainant, the police initiated proceedings

under Section 174 Cr.P.C. instead of Section 173 Cr.P.C. The complainant at the behest of relatives changed his version and made allegations against the petitioner. It is strange that complainant is claiming that later on he came to know that his sister was being taunted by her husband on account of not having child. The petitioner is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Ludhiana. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody Certificate dated 16.02.2023 is taken on record. Registry is directed to tag the same at appropriate place. As per custody certificate, the petitioner is not involved in any other offence and he has already suffered incarceration of 9 months.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. He further submits that out of 10 witnesses, 3 witnesses have already been examined which includes the complainant.

6. In the case in hand, the complainant at the first instance did not implicate the petitioner, however, he changed his version and lodged FIR against the petitioner. There is no direct evidence of harassment on the part of the petitioner. There is no previous complaint by family members of the deceased and even complainant had claimed that later on he came to know that his sister was harassed on account of not having a child. There are 10 prosecution witnesses and till date only 3 witnesses have been

examined, thus, there is abysmally low possibility of conclusion of trial in near future. The petitioner is in custody since 13.05.2022. It is the petitioner who called mother of the deceased and did not attempt to run away. The material witness i.e. the complainant stands examined. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The petitioner is not involved in any other criminal case. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

17.02.2023

Mohit Kumar

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No