

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 49571/2022

Date of decision: 07.07.2023.

Kuldeep Singh

.....Petitioner

Vs.

State of Punjab

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Nakul Sharma, Advocate for the petitioner.

Mr. Pankaj Khullar, AAG Punjab

Nidhi Gupta, J.

In his first petition u/s 439 of Code of Criminal Procedure, 1973 petitioner-Kuldeep Singh son of Didar Singh seeks regular bail in case FIR No.134 dated 14.5.2021 registered under Sections 306/34 IPC, at PS Sadar Fazilka, District Fazilka.

As per the facts of the case, the complaint was lodged by Desa Singh son of Inder Singh. It was alleged that he married his younger daughter Rajinder Kaur, aged about 26 years with Sukhdev Singh son of Kala Singh. However, due to the matrimonial discord, the divorce took place between his daughter and Sukhdev Singh. Thereafter, he performed the second marriage of his daughter with petitioner. The relationship between his daughter and petitioner remained cordial for about 7-8 months. Thereafter, the petitioner and the in-laws of his daughter started harassing her. It was alleged that due to the household affairs, petitioner and his brother Bageech Singh used to harass his daughter. When his daughter told him about this fact, the matter

was reconciled with the intervention of relatives. However, on 14.05.2021, he got a phone call that his daughter Rajinder Kaur had died by consuming some spray. They reached the matrimonial home of his daughter and found the dead body of his daughter. The complaint was made and to take legal action against petitioner and Bageech Singh (jeth). On the basis of the same, FIR was registered and investigation commenced. The petitioner in this case is in judicial custody since 18.6.2022. He had approached the Court of Sessions Judge, Fazilka for grant of bail, however, after hearing both sides Id. Session Judge declined the same vide order dated 6.10.2022. Hence, the present bail application.

It is contended by the Id. counsel for the petitioner that deceased Rajinder Kaur had gone to her parental home on 6.5.2021 as she was suffering from Covid-19 and wanted to isolate. In the meantime, father of the petitioner expired on 12.5.2021 so the deceased came back to her matrimonial home on 12.5.2021. It is submitted that on the date of incident i.e. 14.5.2021 the entire family was busy in the “*phul chugna*” (collecting ashes) ceremony of the deceased father and therefore, the allegation contained in the FIR against the petitioner that he had slapped the deceased is utterly false.

It is further submitted that in fact the deceased Rajinder Kaur had been earlier married to one Sukhdev Singh and one son Arman was born out of that wedlock. The petitioner was previously unmarried and this was his first marriage with deceased Rajinder Kaur. It is stated that even as per testimony of PW1 Desa Singh, complainant (father of the deceased) has admitted in his cross examination that “*it is correct that child Arman from the first marriage of my daughter was also accepted and kept by accused Kuldeep Singh in his home. Arman used to be unwell. We as well as Kuldeep Singh*

got him treated. It is correct that on 14.5.2021 the ceremony of collecting ashes of Didar Singh was to be performed. We had to visit house of Kuldeep Singh for that purpose". It is submitted that therefore, the allegation that the petitioner was causing harassment to the deceased, is utterly false. It is submitted that the petitioner and the deceased have no child from their marriage.

It is further submitted that even in the FIR the only allegations against the petitioner is that he and his elder brother Bageech Singh "had started harassing my daughter for last 3-4 months due to *household works*.... Today at about 9.05 a.m. my daughter phoned me from her mobile no. 9855946730 on my mobile no.6280913508 which was picked up by my wife and my daughter informed on phone that she was *slapped* by her husband and she would not be able to rehabilitate there, so come up and take her along" (emphasis applied). It is submitted that even as per the complainant, the worst allegation against the petitioner and his brother is harassment of the deceased for household works, and purportedly slapping the deceased on 14.5.2021. Ld. Counsel submits humbly that the above said allegations are vague and do not fall within the ambit of Section 107IPC.

It is further stated that co-accused Bageech Singh has been granted regular bail by this Court vide order dated 31.08.2022 (Annexure P-5) passed in CRM-M 28814/2022. It is reiterated that no harassment or instigation is made out in the present case, and prays that the petitioner, who has been in judicial custody since 18.6.2022, be released on regular bail.

Per contra, Ld. State counsel opposes the prayer for grant of bail and submits that incident has taken place within three years of marriage and therefore, the petitioner does not deserve the concession of regular bail.

It is however, admitted that the FIR has been registered under section 306 and 34 IPC, and not under S. 304-B IPC. Ld. State counsel also produced Custody Certificate dated 5.7.2023 which is taken on record. It is also submitted by the ld. State counsel that out of 23 witnesses 10 have been examined and the next date of hearing before the learn it Trial Court is 23.7.2023.

After hearing ld. counsel for the parties, keeping in view the facts and circumstances of the case and especially the fact that:-

- i) the petitioner is in custody since 18.6.2022 and has undergone 1 year and 17 days;
- ii) out of 23 witnesses, 13 remain to be examined;
- iii) the trial is likely to take some time; and
- iv) as per custody certificate no other case is pending against the petitioner;

the present petition is allowed and petitioner Kuldeep Singh son of Didar Singh is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

However, it is made clear that nothing stated above shall be taken as an expression of opinion on the merits of the case.

07.07.2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No