

Neutral Citation No.2023:PHHC:139475

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

**CRM-M No.48186 of 2023
Date of Decision: 31.10.2023**

Arun ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikas Gulia, Advocate,
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana.

Mr. Gourav Verma, Advocate,
for the complainant.

MANISHA BATRA, J.

1. The instant petition under Section 439 of Cr.P.C. has been filed by the petitioner Arun seeking regular bail in case bearing FIR No.16 dated 09.01.2023 initially registered under Sections 302 and 328 read with Section 34 of IPC and later on converted to Section 306 of IPC at Police Station Kharkhoda District Sonapat.

2. Brief facts relevant for the purpose of disposal of this petition are that on 08.01.2023 on receipt of a telephonic information regarding admission of Jyoti wife of the present petitioner Arun in MV Hospital as a case of ingestion/consumption of some poisonous substance, a police party had reached there. In the meanwhile, the victim had been taken and admitted in Jaipur Golden Hospital, Delhi and was declared to be unfit to make any statement. She died on 09.01.2023. Sh. Navdeep Kumar, paternal uncle of the victim submitted a written

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complaint on 09.01.2023 alleging therein that the victim who was married with the petitioner Arun about 12 years back was subjected to cruelty by her husband and mother-in-law and aunt of her husband on account of bringing less dowry in her marriage. He further alleged that some poisonous substance was administered to the victim by the petitioner and the above persons on 08.01.2023. He stated that the victim had disclosed to him and his other family members about the torture meted out at the hands of the petitioner and his family members. On his complaint, initially a case under Section 302 and 328 read with Section 34 of IPC was registered. Investigation proceedings and inquest proceedings were conducted. Postmortem examination of the dead body of the victim was also conducted. During the course of investigation, the offences under Section 302 and 328 read with Section 34 of IPC were deleted and offence under Section 306 of IPC was added. The present petitioner was arrested on 12.02.2023. He moved an application for grant of regular bail before the learned trial Court which was dismissed vide order dated 05.09.2023.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner is in custody since 12.02.2023. His custodial interrogation is no more required as investigation has completed and challan has been presented in the Court. The trial of the case is likely to take time. The victim had left a suicide note before her death that was handed over to one of her sons who is presently residing with his maternal uncle. In the said suicide note, she had made it clear that she was committing suicide at her own free will. The statements of sons of the petitioner and victim were recorded under Section 164 of Cr.P.C. which also showed that the petitioner had not abetted the suicide by the

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victim. With these broad submissions, it has been urged that the petitioner deserved to be given concession of regular bail.

4. Per contra, it was submitted by learned State counsel appearing on behalf of respondent-State and learned counsel for the complainant who has filed Vakalatnama on his behalf that the postmortem examination report of the victim revealed that several injuries had been inflicted to the victim prior to her death which were fresh in nature and proved that the victim had been forcibly ingested with some poisonous substance with the present petitioner after being extended beatings. They have argued that the petitioner in his disclosure statement had even admitted the fact that he had extended beatings to the victim as on 08.01.2023. They argued that infact it was a case of homicidal death and not a suicidal death. The charge was yet to be framed. The allegations against the petitioner were serious in nature. Hence, it has been urged that the petitioner does not deserve to be given benefit of regular bail.

5. The petitioner along with his mother and maternal aunt was alleged to have ingested some poisonous substance to the victim on 08.01.2023 after extending beatings to her which resulted in causing death of the victim as on 09.01.2023. Though initially the petitioner had been booked for commission of offences punishable under Sections 302 and 328 of IPC read with Section 34 of IPC, however, subsequently on the basis of statements of sons of the victim and petitioner, the aforementioned offences were deleted and offence under Section 306 of IPC was added. The copies of statements of the sons of the victim as recorded under Section 164 of Cr.P.C. have been placed on record which reveal that they had stated that the victim had consumed some poisonous substance in their presence. As per the

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postmortem report, the cause of death could be ascertained after receipt of the FSL report to be prepared after examining the viscera contents taken from the dead body of the victim.

6. The petitioner has been challaned for commission of offence punishable under Section 306 of IPC. Charges are yet to be framed against him. The offence under Section 302 of IPC for which he had initially been booked had been deleted on the ground that the victim had left a suicide note which as per the prosecution case was handed over by her to one of her sons. Only a photocopy of that suicide note has been placed on record by the petitioner and the original had not been produced before the investigating agency rather it is stated to have been destroyed. Therefore, the question as to whether the suicide note allegedly written by the victim can be considered to be admissible in evidence will be decided by learned trial Court after recording the evidence during the course of trial? The petitioner is alleged to have suffered a disclosure statement to the effect that on the evening of 07.01.2023 he had extended beatings to the victim with a danda thereby causing injuries to her and even had asked her as to why the victim did not die. Though the exact cause of death of victim is yet to be ascertained on the basis of report which is to be received from FSL but the postmortem report showing that fresh injuries that were ante mortem in nature and were in the form of multiple contusions were found on the dead body of the victim create a doubt as to whether it was a case of forcible ingestion of some poisonous substance to the victim while extending beatings to her or it was a case of self-consumption of poison by the victim? The allegations as levelled against the petitioner make out only an alternative case of abetment of suicide by the victim. Keeping in view the nature of allegations as

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levelled against the petitioner, the quantum of sentence which the conviction of the petitioner under Section 306 of IPC may entail and the attendant facts and circumstances of the case, this Court is of the considered opinion that the petitioner does not deserve to be given concession of bail at this stage when even charge has not been framed and trial has not been commenced. Accordingly, the petition is dismissed.

31.10.2023
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(MANISHA BATRA)
JUDGE

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