

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

CRM-M-51230-2022

Date of Decision: 11.09.2023

Pankaj

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. B.S.Rana, Sr. Advocate with
Mr. Nayandeep Rana, Advocate and
Mr. Navdeep Doon, Advocate, for the petitioner.
Mr. Rajneesh Chadwal, Assistant Advocate General, Haryana.
Mr. D.S. Matya, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present second petition is for the grant of regular bail to the petitioner in a case FIR No.244 dated 31.05.2021, registered under Sections 498-A, 304-B, 34 IPC, at Police Station Rajendra Park, District Gurugram.

Adumbrated facts of the case are that statement of Mohit Suyal son of Nanda Bahalab Suyal was recorded by the Police, wherein, it was alleged that he is resident of village and Post Patliya Tehsil Kalaigi, Police Station Kalaigi, District Nanital, Uttarakhand and employed in IT Company Noida for the last about three years. They are four brothers and sisters. His youngest sister, namely, Hemlata aged about 27 years, married to Pankaj i.e. the petitioner in November 2020 as per Hindu rites and rituals. It was alleged that soon after the marriage, jewellery given to his sister was taken by her parents-in-law and they demanded Rs.10 lacs from his sister. Under their pressure, they gave Rs.1 lac as well. On 31.05.2021, the complainant got a call and he rushed to the matrimonial home of his sister. He found that

dead body of his sister was hanging from the fan. It was alleged that his sister was murdered by her in-laws and thus, prayed for taking legal action against the culprits. On the basis of the allegations, a formal FIR was registered and the investigation commenced. Postmortem of the body was conducted and statements of relevant witnesses were recorded. The petitioner was arrested on 31.05.2021. On the conclusion of the investigation, the challan was presented and the trial commenced. The petitioner approached the Court of learned Additional Sessions Judge, Gurugram, however, the learned Court after hearing both the sides, dismissed the same vide its order dated 07.10.2021. Aggrieved by the same, on the earlier occasion the petitioner approached this Court by way of filing CRM-M-45971-2021, however, the same was allowed to be withdrawn vide order dated 19.04.2022. Hence, the petitioner has approached this Court again by way of filing the present second petition for grant of bail.

Learned Senior counsel for the petitioner has vehemently contended that the petitioner has been made scapegoat in this case being the husband of the deceased. He has submitted that both the petitioner and the deceased were working in IT Company in Gurugram and were in cordial relationship with each other. He submits that they were living in live-in-relationship since the year 2016 and got married in the year 2020. It is submitted that there was no question of any demand of dowry or harassment caused to the deceased as alleged by the complainant. He submits that the petitioner is a well educated person and has no criminal antecedents whatsoever. It is submitted that there is no evidence regarding cruelty caused to the deceased soon before the death on account of demand of dowry and hence, presumption under Section 113-B of the Evidence Act is

also not attracted in this case. He has submitted that though the deceased committed suicide within seven months of marriage, the same is not sufficient for the prosecution of the petitioner for the offence under Section 304-B IPC. He submits that even otherwise the petitioner is behind bars from the last more than two years and the material witnesses already stand examined. He further submits that thus, in the overall facts and circumstances, the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned Senior counsel for the petitioner. He has submitted that deceased died an unnatural death within seven months of her marriage due to harassment and cruelty caused by the petitioner on account of demand of dowry. It is submitted that the petitioner was married to the deceased in November 2020 and there are specific allegations for demand of dowry from the deceased and hence, having no alternative, she committed suicide by hanging. He has submitted that as per instructions, the petitioner has no criminal antecedents. He has further submitted that out of 25 prosecution witnesses, 4 witnesses have been given up and from the remaining 21 prosecution witnesses, only 3 witnesses are already examined, which includes the complainant and his sisters. He submits that in these circumstances, the petitioner has no case for grant of bail.

Heard.

Evidently, the petitioner was married to the deceased in November, 2020. The deceased committed suicide by hanging within seven months of her marriage. The petitioner was arrested on 31.05.2021 and there is no gainsaying that he is behind bars from the last more than two years. Challan is presented and the charges are framed. Out of total 25 prosecution witnesses, 3 witnesses including the complainant have been

examined. As submitted before this Court, the petitioner has no criminal antecedents. Whether the presumption under Section 113-B of the Evidence Act is attracted or not, this Court would refrain itself from commenting anything on merits of the case as the same would lie in the domain of the trial Court to be decided by it on the basis of evidence to be led by both the sides. However, considering the prayer for grant of bail to the petitioner, I am of the view that learned Senior counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time in its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

11.09.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No