

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

218

CRM-M-51894-2022

Date of Decision: 15.02.2023

Mohamad Khursid**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Manuj Nagrath, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Narinder Kumar)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Cr.P.C., is seeking regular bail in FIR No. 0016 dated 29.01.2022 (Annexure P-1) under Section 306 of IPC registered at Police Station City Jagraon, Ludhiana Rural, District Ludhiana.

2. The case of prosecution is that complainant-Sonu made a complaint to police that marriage of his sister Salma was solemnized with Mohammad Khurshid. The in-laws family of his sister used to harass her and demand dowry. Salma whensoever visited her parental home told everything to complainant but they remained quite with a hope that things would improve with the passage of time. On 28.01.2022, Salma came to her parental home from her matrimonial home and she started crying. She told that in-laws family have given beatings to her and turned her out from the matrimonial house. On

29.01.2022, the complainant and his family members left house in connection with their respective jobs and when he came back at 4:00 PM, he saw that body of Salma was hanging with ceiling fan. Salma has committed suicide due to harassment by her husband and other family members.

3. Learned counsel for the petitioner, *inter alia* contends that there is no suicide note and deceased had committed suicide at her parental house. The police after completing investigation did not find case of demand of dowry accordingly, Section 498-A IPC was not invoked in the challan. The challan has been presented only under Section 306 IPC. The Sessions Court and this Court has granted regular bail to other co-accused. The petitioner is not involved in any other offence. The petitioner is in custody for more than 1 year. 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 14.02.2023 is taken on record. Registry is directed to tag the same at appropriate place.

5. Learned State Counsel, on instructions from ASI Narinder Kumar, submits that police report has already been filed and charges stand framed. He further submits that out of 13 witnesses none has been examined and next date is 28.02.2023. The petitioner is main accused, thus, he cannot claim parity.

6. In the case in hand, the petitioner is in custody for more than 1 year. This Court vide order dated 27.09.2022 passed in CRM-M-32151-2022 has granted regular bail to brother-in-law (*jeth*) of the deceased. The Sessions Court has granted regular bail to other accused i.e. sister-in-law and another brother-in-law. The petitioner is not involved in any other offence. Police report under Section 173 of Cr.P.C. stands filed and charges stand framed. There are 13 prosecution witnesses and till date no witness has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The police in its investigation did not find case of dowry death. 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. Prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of Petitioner being flee from justice or tempering 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/Illaq/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

15.02.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>