

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

5. CRM-M-1438-2024 (O&M)
Reserved on:12.08.2024
Date of pronouncement:22.10.2024

MOHAMMAD SHAD

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. R.S. Hooda, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Pradeep Duhan, Advocate
for the complainant.

HARPREET KAUR JEEWAN , J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.494 dated 11.09.2022 under Sections 323, 304-B, 498-A, 506, 342, 120-B, 201, 34 IPC registered at Police Station Sadar Nuh, District Nuh.
2. As per the prosecution version, the present FIR was registered at the instance of father of the victim, with the allegations that the husband of the victim and her in-laws harassed her and also threatened to kill her on account of bringing less dowry.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case and the petitioner is in custody since 14.09.2022. Out of 18 persons named in the FIR, 15 persons were found innocent during the investigation. Challan has been presented only against 3 persons including Mohd. Saad-husband, Asri-mother-in-law and father-in-law of the victim. Learned counsel for the petitioner further contends that no marks of physical violence was found on the person of the deceased. The deceased did not die in her matrimonial house.

4. On the other hand, learned State counsel has opposed the bail petition on the ground of gravity of allegations against the petitioner. While referring to the status report dated 29.04.2024, learned State counsel submits that the victim was a young female, who died within 6 months after her marriage with the petitioner. The prosecution evidence shall be tampered, in case the petitioner is released on bail. Reference is also made to the disclosure statement of the petitioner (Annexure R-3), wherein he had admitted his guilt and disclosed the manner of commission of offence.

5. I have heard the learned counsel for the parties and perused the relevant documents.

6. As per the status report dated 29.04.2024, on 11.09.2022, the complainant-Almuddin made a complaint against the petitioner and his relatives with the allegation that they had been asking her daughter to bring dowry and threatened that she would be killed, in case the said demand is not fulfilled. The victim, who is daughter of the complainant had narrated the aforesaid incident to her father. It is further alleged that on 09.09.2022, the complainant sent his daughter along with her husband-Mohd Saad-petitioner to her matrimonial house,

however on the next day i.e. on 10.09.2022, telephonic message was received from his daughter that the petitioner (husband) along with his co-accused i.e. her father & mother-in-laws, her sisters-in-law and maternal uncle were harassing her for demand of dowry and they were extending threats to kill her. The victim sought help from her father to save her from the clutches of the accused. It is the case of the prosecution that on 11.09.2022, a telephonic message was received by the complainant from Jamsed, who was the middle men for fixing the marriage of the victim with the petitioner. He informed that the victim was not present in the village. On the basis of the suspicion that victim might have been killed by the accused or she had been concealed somewhere, the matter was reported to the police and FIR was got registered by the complainant (father of the victim).

7. No doubt the petitioner is in custody for 1 year 09 months and 19 days as per custody certificate dated 05.07.2024, however the allegations are serious in nature. As per the post-mortem report (Annexure R-1), the victim was 20 years of age. As per the facts on record, the victim got married about 6 months prior to the occurrence.

8. As per the said status report, on 12.09.2022, on the basis of an information received by the SHO, Police Station Sadar Nuh, that a dead body was flowing in Gurugram canal, near village Thekdi, the investigation was further carried out and the dead body was identified by the complainant. As per the post-mortem examination report (Annexure R-1), at the time of conducting the examination of the body, both the hands were found tied in front with a piece of white cloth and bandage and both the foot were also found tied with white cloth and bandage. In the column of "External General Appearance", a ligature mark was also present around the neck. The ligating material in the form of maroon

colour dupatta was seen completely encircling the neck below the level of thyroid cartilage. On the dissection of the neck, the underlying soft tissues and muscles were found ecchymosed. Regarding the cause of death, the medical opinion in the post-mortem report is ligature strangulation.

9. Copy of the statement of the complainant-Almuddin recorded on 15.02.2024 is submitted in the Court today and the same is taken record as annexure C-1.

10. As per the statement of the complainant-PW-1 (Annexure C-1), the prosecutrix got married with the petitioner on 03.03.2022. There was a demand of dowry immediately after the marriage and the victim used to be harassed, as such after 2 months i.e. on 03.05.2022, the complainant along with other relatives went to the house of the mediator named Jamshed. The matter was amicably settled and the victim was sent to her matrimonial house on 12.05.2022. Thereafter, the accused continued to harass the victim, so she went back to her parental house and again came to her matrimonial house on 09.09.2022. As per the said statement, the complainant had received telephonic message from her daughter-victim on 10.09.2022 stating that the in-laws are threatening to kill her and on the next day i.e. on 11.09.2022, the complainant received a telephonic call from mediator about missing of the victim from her matrimonial home. One day after that the body of the victim was found in the canal.

11. There was a dispute between the victim and her husband regarding the demand of dowry, immediately prior to the occurrence. The facts discovered during the investigation that though the dead body was found in the canal, however, the hands and feets were found tied. There was a ligature mark and even ligature material was present on the body itself, makes the allegations serious.

Only the complainant has been examined yet and the statement of the material private witnesses are yet to be recorded. There is apprehension of tampering with the evidence in case, the petitioner is released on bail, as such, no ground is made out to release the petitioner on bail.

- 12. Consequently, the petition stands dismissed.
- 13. It is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
- 14. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

22.10.2024
P.Bhatt

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