

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CRM-M-2502-2024

Date of decision: 22nd April, 2024

Arun

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. A.K. Goyat, Advocate and
Mr. Nikhil Ghai, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.

seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
16	09.01.2023	Kharkhoda, District Sonapat	302, 328 read with Section 34 of Indian Penal Code, 1860 (for short ‘IPC’) (Section 302, 328 and Section 34 of IPC deleted and Section 306 added later on)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that as per the allegations, the victim Jyoti who was married with the present petitioner about twelve years back was tortured by him and his mother on account of bringing insufficient dowry. Two male children were born to her. Several times, biradari panchayat meetings had been convened with regard to the torture as committed upon the victim by the petitioner and his family members and even a complaint was also moved. It

is alleged that the petitioner and his family members administered some poisonous substance to her on 08.01.2023 and thereafter, by getting her admitted in MV Hospital, they had run away. The victim was taken to Jaipur Golden Hospital by her brother, where she died during the course of treatment on the same day. Initially a case under Sections 302 and 328 read with Section 34 of IPC was registered. Subsequently, these offences were deleted and offence under Section 306 of IPC was added. The victim had also left a suicide note. The statements of her children were recorded as on 09.02.2023, who disclosed that their mother had consumed some powder like substance on the fateful day in the presence of her elder son. The petitioner was arrested on 12.02.2023. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for the commission of offence punishable under Section 306 of IPC. He had filed an application for grant of bail before the learned trial Court which was dismissed on 05.09.2023. He had also moved a petition CRM-M-48186-2023 before this Court for grant of regular bail which was dismissed by this Court vide order dated 31.10.2023 and this is admittedly the second petition for grant of regular bail.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he is in custody since 12.02.2023. Investigation has since been completed. The previous petition had been dismissed by this Court on the ground that charges had not been

framed. Infact, now the charges have been framed as against the petitioner and the case is at the stage of prosecution evidence. It is also submitted that a period of more than five months has since been passed from the date of filing of the previous petition for grant of regular bail which also amounts to change in circumstances due to extended period of incarceration. Trial is likely to take time. It is argued that the petitioner has been charge sheeted only under Section 306 of IPC and not for commission of any other offence. The ingredients for commission of offence of abetment to commit suicide have not been made out from the allegations in the FIR. In the suicide note left by victim, she had not attributed the cause of her death to the petitioner. The injuries found on her person were in the nature of contusion and bluish mark only which could occur due to shifting of the body from one place to another. With these broad submissions, it is urged that the petitioner deserves to be released on bail.

4. Status report has been filed by respondent-State, as per which the petitioner used to harass the victim on account of bringing insufficient dowry and extending beatings to her. There were temperamental differences between them since long and he used to extend beatings to her and to provoke/instigate her to end her life and that was the reason for the victim's dying a suicidal death. The petitioner had suffered disclosure statement admitting his involvement in abetment of suicide of the victim. The material witnesses are yet to be examined. There are chances of petitioner's intimidating the witnesses who are none other than his sons and even of

fleeing, if extended benefit of bail. There is no material change in the circumstances from the date of dismissal of the first bail petition. Hence, it is argued that the petitioner does not deserve to be given concession of bail.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The allegations against the petitioner are that he had abetted suicide by his wife. Section 306 of IPC deals with abetment of suicide and Section 107 of IPC deals with abetment of a thing. It is well settled proposition of law that in order to bring out an offence under Section 306 of IPC, specific abetment as contemplated under Section 107 of IPC on the part of the accused with an intention to bring out the suicide of the person concerned as a result of that abetment is required. The intention of the accused of aiding, instigating or abetting the deceased to commit suicide is a must for offence under Section 306 of IPC. The allegations of harassment of the deceased by the accused do not suffice unless there is some material on record to show that some particular action on the part of the accused had compelled the victim to commit suicide and her suicide was proximate to some offending action. The victim is shown to have left a suicide note, copy of which has been placed on record as Annexure P-2. No specific allegation is shown to have been levelled by the victim as against the petitioner in this suicide note. Though, the authenticity of this note is to be decided only on the basis of thorough assessment and evaluation of the evidence produced

before the trial Court. Multiple contusions were found on the dead body of the victim and as per the disclosure statement, it was the petitioner who had extended beatings to the victim with a *danda* on 07.01.2023, thereby causing injuries to her. The statements of the children of the victim were recorded before the Magistrate under Section 164 of Cr.P.C. as on 09.02.2023, wherein they have stated that the victim had consumed some poisonous substance in the presence of her elder son. Though the factum of having injuries on the dead body of the victim suggests that she had been extended beatings by the petitioner before she took a drastic step of ending her life, however, it cannot be stated on the basis of same that there was any instigation, intentional aiding, goading or provoking or pressure on the part of the petitioner upon the victim to commit suicide. The petitioner has not been charge sheeted under Section 302 of IPC but under Section 306 of IPC which can be considered to be a change in circumstance qua maintainability of this petition. The evidence is yet to be recorded and it is yet to be considered by the trial Court as to whether the victim who committed suicide was hyper sensitive to ordinary petulance, discord and differences in the normal life.

7. The petitioner is in custody since 12.02.2023. Trial is likely to take time. There is nothing on record to suggest that the petitioner would flee from justice or thwart the course of justice or would create any other trouble in the shape of repeating offences or intimidating witnesses. On an overall conspectus of the foregoing consideration, this Court is persuaded to

hold that further detention of the petitioner would not serve any useful purpose. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]

JUDGE

22nd April, 2024

Parveen Sharma	1. Whether speaking/ reasoned	:	Yes
	2. Whether reportable	:	Yes