

CRM-M-3746-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-3746-2024

Date of decision:15.02.2024

Krishna

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Manjeet Singh, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Haryana.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.561 dated 10.09.2023, registered for the offences punishable under Sections 304-B/34 of IPC at Police Station Sadar Bhiwani, District Bhiwani, wherein report under Sections 173 of Cr.P.C. has been filed under Sections 306/34 IPC.
2. The case set up in the FIR in question is as follows:-

“Statement of Sharwan son of Hukamchand resident of village Bawani Khera, District Bhiwani. Stated that I am resident of the above said address and to agriculture work. I have one son and three daughters. I had solemnized marriage of my eldest daughter Jyoti with Ashwani son of Balwant resident of Bamla-II as per Hindu rites and customs in April 2016. I had given dowry as per my capacity in marriage of my daughter Jyoti. About 6 years ago, my daughter Jyoti had given birth to a son and I had given sufficient articles to my daughter at that time also. However I daughter Jyoti's husband Ashwani son of Balwant, father-in-law Balwant, mother-in-law Krishna and sisters-in-law Sonu and Monu daughters of Balwant were repeatedly harassing my daughter Jyoti for bringing less dowry. My daughter had informed me many times in this regard. I repeatedly made in-laws family of Jyoti to understand and made request time and again but the members of her in-law's family continued harassing

her. Due to this harassment my daughter Jyoti ended her life by hanging herself yesterday on 0910.09.2023. On being informed in this regard, I reached civil hospital Bhiwani where the dead body of my daughter Jyoti is lying in emergency ward, which I have identified. This dead body is of my daughter Jyoti. My daughter Jyoti has ended her life due to harassment caused by her husband, mother-in-law, father-in-law and sisters-in-law. Legal action be taken against them. Sd/- Sharwan. 10.09.2023"

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 23.09.2023 and investigation in the case is already complete. Learned counsel has further argued that the marriage between the deceased and co-accused (Ashwani) took place in the year 2016 whereinafter no complaints have been made on behalf of family of the deceased regarding any kind of harassment being meted out to the deceased. It has been further argued that, after investigation, challan has been put up against the petitioner under Section 306/34 of IPC. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 13.02.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court in **Criminal Appeal No.3578 of 2023** titled as ***Mohit Singhal & Anr. Vs. The State of Uttarkhand & Ors., (Neutral Citation No.2023 INSC1035)***; relevant whereof reads as under:-

“8..... Section 306 of the IPC makes abetment to commit suicide as an offence. Section 107 of the IPC, which defines the abetment of a thing, reads thus:

"Section 107 -- Abetment of a thing.- A person abets the doing of a thing, who- First-Instigates any person to do that thing; or

Secondly.-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly. Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.-A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing."

9. In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide."

7. The petitioner was arrested on 23.09.2023 whereinafter investigation was carried out and challan was presented on 26.10.2023. Total 28 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contentions of learned counsel for the parties, as to whether offence under Section 306 of IPC is made out in the factual matrix of the present case, will be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival submissions, at this stage, lest it may prejudice the case of either parties. The

petitioner is a woman aged about 56 years and hence her petition for grant of bail is required to be considered in terms of first proviso of Section 437 of Cr.P.C, 1973. Further, no tangible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 13.02.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about 04 months and 21 days & is not shown to be involved in any other case. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change her cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.
10. Ordered accordingly.
11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 15, 2024
Ajay

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