

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214

CRM-M-5205-2024

Date of Decision: 05.03.2024

Balwinder Singh

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. R.S. Randhawa, Advocate for the petitioner.

Mr. S.S. Chahal, AAG, Punjab.

NIDHI GUPTA, J. (ORAL)

Prayer in this 2nd petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in case FIR No. 0137 dated 16.10.2022 (Annexure P-1) registered under Section 304-B IPC at Police Station Koom Kalan, District Ludhiana (Punjab).

FIR in the present case was registered on the basis of statement of Sikander Singh-complainant/father of deceased. Deceased was married with petitioner in the year 2019, and in the said marriage the complainant is alleged to have given dowry of more than his financial status. It was alleged by him that petitioner and his family members used to harass the deceased to bring more dowry. It was further alleged that mother-in-law of deceased used to tell the deceased to leave her son and that they will perform another marriage of the petitioner. It is further alleged that on 14.10.2022 deceased rang up the complainant and told him that her husband (petitioner herein), mother-in-law, father-in-law,

sister-in-law and brother-in-law were harassing her to bring a car and leave the house, else, they will kill her. It was alleged by the complainant that about 20 days prior to filing of FIR, they entered into an agreement and complainant sent his daughter to her in-laws' house. It was then alleged that on 15.10.2022 at about 12 noon he came to know that his daughter had committed suicide by hanging herself after being fed up with petitioner Balwinder Singh and his family.

Learned counsel for the petitioner submits that deceased was suffering from Tuberculosis and was depressed as a result of which she committed suicide. In this regard, learned Counsel refers to Cytopathology report dated 6.4.2022 (Annexure P-3) issued by Dayanand Medical College & Hospital, Ludhiana, wherein it is recorded that the deceased was a patient of tuberculosis. Learned counsel further submits that no suicide note has been found; that date of marriage is February 2019 and date of incident is 2-1/2 years later, i.e. on 15.10.2022, and FIR was registered by father of the deceased on 16.10.2022. It is further submitted that there are no children from the said marriage and cause of death is by hanging. It is further submitted that co-accused/parents of the petitioner have been granted Anticipatory Bail by this Court vide order dated 22.5.2023 passed in CRM-M-9373-2023. Further, it is submitted that earlier the petitioner has filed petition seeking regular bail bearing No. CRM-M-6640-2023, which was declined on merits by this Court vide order dated 20.07.2023 (Annexure P-8). It is submitted that thereafter, the complainant/father of the deceased and the son of complainant/brother of the deceased have been examined before the learned trial Court as PW-1 and P-2 and their respective testimonies are

appended as Annexures P-4 and P-5, respectively where both of them have turned hostile. The complainant has also entered into a compromise dated 17.11.2022 (Annexure P-2), para 1 of which reads as under:-

“That the first party lodged the above-mentioned FIR against the second party under the misguided circumstances on the sudden demise of the daughter of the first party, the allegations of dowry against the second party were made in the FIR by the first party in a fit of anger and rage. However, the fact is that the daughter of the First Party was suffering from Tuberculosis which the deceased got to know on 06.04.2022. Due to her ill health, her mental state also got affected. Her day-to-day life deteriorated and as a consequence, she fell into depression and committed suicide. There was no harassment to the deceased or her family by the second party”.

Thus, it is submitted that petitioner has been in custody since 17.10.2022. The trial is likely to take a long time. No useful purpose will be served by further detention of the petitioner in custody. Therefore, it is prayed that petitioner may be released on regular bail.

Per Contra, learned counsel for the State has filed custody certificate dated 04.03.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year, 04 months and 19 days. Learned counsel for the State vehemently opposes the prayer for bail by saying that as per law, in an offence under Section 304-B IPC, matter cannot be disposed of by way of compromise between the parties. On instructions from ASI Sanjeev Kumar, learned State counsel further submits that challan was presented in December, 2022; charges have been framed by the trial Court; and trial has commenced. He further submits that out of total 11 prosecution witnesses, 02 have already been examined and the next date of hearing before the trial Court is 13.03.2024. However, learned counsel for the State fairly admits that

the complainant and his son i.e. brother of the deceased have turned hostile before the trial Court.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case, including the fact that the petitioner has been in custody as an undertrial for a period of 01 year, 04 months and 19 days; and the custody certificate also reveals that there is no other case against the petitioner; and moreover, the material witnesses including the complainant and his son/brother of the deceased have already been examined by trial Court; and out of total 11 prosecution witnesses only 02 have been examined till date, therefore, conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed.**

The petitioner-Balwinder Singh S/o Bhag Singh, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

05.03.2024
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No