

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

CRM-M-5088 of 2024

Sombir

.....Petitioner

Versus

State of Haryana

.....Respondent

Date of Decision: 01.02.2024

CORAM: HON'BLE MR. JUSTICE SUDEEPTI SHARMA

Present: Mr. Abhinav Gupta, Advocate for the petitioner.
Mr. S.K Dagar, DAG, Haryana.

Mr. Arjun Atri, Advocate for the complainant.

SUDEEPTI SHARMA, J

Prayer is for grant of anticipatory bail in case FIR No.03 dated
01.01.2024 under Sections 306/34 IPC registered at P.S Rajendra Park,
District Gurugram.

FIR was lodged on the statement made by the complainant
Deepak Sharma, who alleged that his two sisters namely Hem Lata and
Mamta (since deceased) were married with two real brothers, namely
Bhupender and Sombir (present petitioner) respectively in the year 2009.
However, her sister Mamta was harassed and tortured on the pretext of
dowry. On 04.11.2023, his sister Mamta was beaten up badly for bringing
cash amount. On 31.12.2023, Mamta had made a call to him to bring her
back to her parental home as she apprehended that something wrong could
happen. On 01.01.2024, they received information that Mamta had been
murdered. When they visited the matrimonial home of Mamta, they saw her
dead body lying in the courtyard. Thereafter, it came to light that accused
persons had constantly beaten Mamta and thereafter hanged her with the
ceiling fan.

Learned counsel for the petitioner vehemently submits that the
relations of Hemlata-elder sister of Mamta (since deceased) and Bhupinder-

elder brother of the petitioner were not cordial. Due to temperamental dispute, said Hemlata left her matrimonial home in November 2023 leaving behind her two children and thereafter never returned back. Had the petitioner caused any kind of harassment to his wife (since deceased), she would not have stayed with him. No demand of dowry was ever raised by the petitioner and that no overt act is attributed to the petitioner which has led the deceased to commit the suicide. To substantiate his contentions, he cited judgment of Hon'ble Supreme Court reported as **Gurcharan Singh vs. The State of Punjab 2020 CrI.L.R (SC) 954** and referred to para 10,11 and 15. He also relies on judgment of Hon'ble Supreme Court reported as **Rajesh vs. State of Haryana passed in CrI.A.No.93 of 2019 (arising out of SLP (CrI.) No.8667 of 2016) on 18.01.2019** and drew the attention of this Court towards para 3 and 8 of this judgment. He further placed reliance on **Mohit Singhal & Anr vs. The State of Uttarakhand & Ors** passed by Hon'ble Supreme Court in CrI.A.No.3578 of 2023 on 01.12.2023.

Per contra, learned State counsel has opposed the prayer stating that the issue whether the offence is made out can be decided only after evidence is adduced.

Learned counsel for the complainant has shown certain photographs that the elder sister of the deceased was also given beatings and that both the sisters were harassed and subjected to cruelty. He submits that both the sisters made a complaint levelling serious allegations and their MLRs were produced before the police at that stage.

I have heard learned counsel for the parties and perused the paper book with their able assistance.

A bare perusal of FIR shows that the complainant and his family had gone to in-laws of Mamta (since deceased) after receiving

information from their daughter regarding ill-treatment meted out to her to make them understand but despite it they are alleged to have kept on beating and harassing her. It is further apparent that on 31.12.2023, Mamta had informed that the said persons were beating her and any untoward incident could occur with her at any point of time and requested them to take her away otherwise she would be killed and on 01.01.2024, information was received that Mamta had been murdered.

However, this Court finds that the judgment reported as **Gurcharan Singh's case (supra)** of Hon'ble Supreme Court is clearly distinguishable from the facts of the present case as the said judgment was delivered on an appeal having been filed against the judgment and order of conviction and finding no relevant material on record to convict the appellant under Section 306 IPC, Hon'ble Supreme Court interfered with and thus the appeal was allowed. So far as the judgment of Hon'ble Supreme Court in **Rajesh's case (supra)** is concerned, the same is also distinguishable from the facts of the present case as the said judgment is passed in an appeal filed against the judgment of conviction. As regards the judgment passed by Hon'ble Supreme Court in CrI.A.No.3578 of 2023, the same also does not support the case of the petitioner as the verdict was delivered in an appeal. All the judgments cited by learned counsel for the petitioner are passed *in personam* and not *in rem*.

As the investigation is at the preliminary stage and same shall be hampered and impeded in case the accused is released on anticipatory bail and police will be deprived from unearthing the truth.

The petition is thus bereft of merit and the same is dismissed.

February 01, 2024

(Sudeepti Sharma)

Judge

