

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-6750-2024

Date of decision:14.03.2024

Gulshan

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. L.K. Gollen, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Haryana.
Mr. Gurjant Singh, Advocate for the complainant.

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.241 dated 25.06.2021, registered for the offences punishable under Sections 302, 120-B, 313 (added later on) and Sections 498-A, 304-B & 34 of IPC at Police Station Barauda, District Sonipat.
2. The case set up in the FIR in question (as stated in petition) is as follows:-

“To, Incharge, Police Post, BhainswalKhurd, Police Station Baroda. Sir, it is submitted that I am Maman Singh son of Surjan Singh resident of Krishna Colony, Indira Colony Street, Rohtak. I have two children. Age of my elder daughter Jyoti is 25 years and age of my younger son Nitin is 10 years. I got marriage of my daughter Jyoti performed on dated 15.12.2020 with Gulshan son of Nafe Singh resident of Meham Road, street of MR School, Gautam Nagar, Gohana according to Hindu rites and ceremonies. After marriage, my daughter was being harassed for dowry by her Father-in-law, mother-in-law and brother-in-law (Dewar) namely Gulshan and her husband namely Gulshan. They used to demand Car, A.C. and Chain, Gulshan had demanded Rs.10 lakh and used to give beatings to her and harass her. They used to not to allow Jyoti to talk with us over phone. On dated 24.06.2021 at about 4:00 pm, Husband of Jyoti namely Gulshan had taken her to Rohtak for having meeting with her family members. He came

on his bike bearing No. HR 11F 0779 make Deluxe. He slept by saying that he is not feeling well. He woke up early at 4:00 am for going to his homeat Gohana and went away with Jyoti 5:00 am for going to Gohana. After 1 hour I called father of Gulshan namely Nafe Singh to ask whether Gulshan and Jyoti have reached or not but he did not attend my call. After sometime Gulshan called me and told that I and Jyoti are on drain no. 8 before Surya Garden and Jyoti is not speaking anything, Gulshancut the call after saying it. After receiving this information, I reached near drain no.8 alongwith my family. I saw Gulshan sitting on the track of drain and he was stained with blood. He was not telling anything on being asked. Jyoti was lying dead near track of drain and her body was full of blood stains. My daughter has been murdered by her husband Gulshan after harassing her for demand of dowry. Stringent Legal action may be taken against all the above mentioned persons. Her Father-in-law, mother-in-law and brother-in-law (Dewar) are also involved in harassing her for demand of dowry. All of them are responsible for her death. Sd/- Maman Singh son of Surjan Singh resident of Krishna Colony, Indira Colony Street, Rohtak. Mobile No. 9466054510, 9992402561."

3. Learned counsel for the petitioner submits that the case of the prosecution is based on circumstantial evidence. Learned counsel has further argued that there is no evidence on record which would connect the petitioner to the alleged murder of his own wife. Moreover, there is no indication that the petitioner would tamper with evidence or influence prosecution witnesses as all the material prosecutin witnesses including the complainant have already been examined. Learned counsel further points out that the other co-accused have been accorded the concession of regular bail by this Court vide CRM-M-53255-2022 and CRM-M-885-2023. 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.

5. Learned counsel for the complainant has strenuously opposes the petition, expressing concerns about the possibility of the petitioner fleeing from trial proceedings if granted bail. He submits that material prosecution witnesses so far examined have duly supported the case of the prosecution.

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

7. The petitioner is in custody since 25.06.2021 whereinafter challan was presented on 20.09.2021 and trial is underway. Four prosecution witnesses out of total cited twenty prosecution witnesses already stand examined. The petitioner has been arraigned as an accused for offences under Sections 302/304-B/498-A/120-B/34 of IPC. The case set up against the petitioner is serious in nature. The post mortem report reflects that cause of death of the deceased is excessive loss of blood and hemorrhagic shock which is ante mortem in nature and is sufficient to cause death. The injuries alleged to have been inflicted on the deceased are as follows:

Sr No.	Injuries
1	<i>Incised wound of size 6x1.5 cm extending from mid line of no neck in front upto approx 4 cm below mastoid tip. Further dissection, muscles incised, major vessels of right side of neck incised, trachea and oesophagus dissected cervical vertebrae exposed.</i>
2	<i>Incised wound of approx size 3.5x1 cm present on palm of right hand on further dissection underlying bone intact</i>

Still further, the above said PMR further reflects as follows:

“On per abdomen examination uterus was 24 weeks size foetal parts are palpable, foetal sound not audible relaxed no mark of any injury on abdomen within normal limit”

7.1. The defence sought to be set up by the petitioner shall be gone into during the course of trial at the appropriate stage. Testimony of prosecution witnesses is still underway. It would be apposite to refer herein to a judgment of the Hon'ble Supreme Court in case titled as ***Kalyan Chandra Sarkar vs. Rajesh Ranjan alias Papu Yadav and another, (2004) 7 Supreme Court Cases 528***; relevant whereof reads as under:-

“11. The law in regard to grant or refusal of bail is well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge.

(See Ram Govind Upadhyay v. Sudarshan Singh (2002) 3 SCC 598 and Puran v. Rambilas(2001) 6 SCC 338.”

7.2 The nature of offence and role attributed to the petitioner is serious in nature. Possibility of influencing/intimidating the witnesses, who are yet to depose, cannot be ruled out. The case of two co-accused namely Sunita and Vikas, who have been granted the concession of regular bail by this Court, is on completely different footing. Thus, petitioner is not entitled to concession of regular bail. Dismissed.

8. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

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9. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

March 14, 2024
Ajay

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