

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-8518-2024
Date of decision: 04.04.2024

Ankit Bhagat
State of Haryana

V/s

....Petitioner
....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sanyam Khetarpal, 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.138 dated 14.05.2022, registered for the offences punishable under Sections 304-B/34 of IPC at Police Station Sector-17, District Faridabad.
2. The case set up in the FIR in question is as follows:-

“Statement of Pinku Sharma S/O Khantar Sharma R/O Village Rahi Jagatpur, Police Station Vihari Ganj, District Maghepura Bihar, Age 45 years, Phone No. 7209700271, stated that I am a resident of the above address and work in Krishna's field in Atal village, Sampla Tehsil, Rohtak. I have 2 sons and 2 daughters. My eldest daughter's name is Neha Devi, aged 19 years, whose marriage was solemnized with Ankit Bhagat S/O Dalip Bhagat, resident of Village Gyan Nagar, Pusthan Police Station Vihari Ganj, District Maghepura (Bihar) in accordance with customs and rituals, and dowry was given in accordance with my status. However, my son-in-law Ankit Bhagat and his father Dalip Bhagat were not satisfied with the dowry given in the marriage. My son-in-law Ankit Bhagat works in a private job in Faridabad, Haryana, and a few days after the marriage, he took my daughter Neha with him to Faridabad. Neha's father-in-law Dalip Bhagat also works as a security guard in Faridabad and lives with them. Ankit Bhagat and Dalip Bhagat used to pressurize Neha to bring money from home and harass her. In this regard, I also went to their rented room in Faridabad once and tried to explain, but a few days later, Ankit Bhagat and his father Dalip Bhagat started harassing my daughter Neha and quarreling with her. Upon being pressured, my daughter asked Ankit Bhagat to take her to her maternal home (my house), but till date, Ankit Bhagat has not brought my daughter to my house. Yesterday, dated 13.05.2022, between 8:00/9:00 in the

morning, my wife called Ankit Bhagat to talk to Neha, but Ankit Bhagat didn't got us talk with her and yesterday, Ankit Bhagat and Dalip Bhagat both together harassed and mentally tortured her. That I got information yesterday, dated 13.05.2022, around 10:00 in the evening, from the police that my daughter Neha has committed suicide, I was unable to come to Faridabad last night, so today, dated 14.05.2022, I have come to BKH Faridabad and I have personally confirmed that Ankit Bhagat and his father Dalip Bhagat used to harass or torture Neha every day. Yesterday as well, Ankit Bhagat and Dalip Bhagat harassed her a lot regarding bringing money, troubled of all this made my daughter Neha commit suicide by hanging herself. I have seen her body at BKH Faridabad. Please take strict action against Ankit Bhagat, son of Dalip Bhagat, Dalip Bhagat son Raju Bhagat, residents of Village Gyan Nagar, Pusthan Police Station Vihari Ganj, District Maghepura Bihar, and ensure justice by conducting a thorough investigation or conducting a post-mortem of my daughter Neha Devi and hold them accountable for her death."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 14.05.2020. Learned counsel has further argued that the offence under Section 304-B of IPC is not made out against the petitioner in the facts and circumstances of the present case. It has been further argued that the prosecution witnesses are not being recorded during the course of trial despite the charges having been framed against the petitioner on 01.09.2022. Learned counsel has further argued that the marriage between the petitioner and the deceased took place in January 2021 but no complaint much less a specific complaint was ever made by the deceased or her family regarding any dowry harassment being meted out to the deceased. 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 02.04.2024 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. A status report was sought for from the State of Haryana on 22.02.2024, relevant whereof reads as under:-

“4. That there are 14 witnesses in the case but none has been examined in the case despite framing charge against the petitioner and his co-accused on 01.09.2022.

5. That the present case was fixed on 17.10.2022 for prosecution evidence, but summons to PWs no.1 to 3 were not issued by the Ahlmad of the Court concerned. Therefore, the Ahlmad was warned to remain careful in future, then the case was fix on 12.12.2022 for prosecution evidence.

6. That on 12.12.2022, the Ld. Presiding Officer relinquished the charge as no prosecution witnesses were present. Summons were not issued by concerned Ahlmad. Therefore, the Ahlmad was warned to be careful in future and the case was fixed on 28.03.2023 for prosecution evidence.

7. That on 28.03.2023, the summons were also not issued by concerned Ahlmad, therefore, no witnesses were present on 28.03.2023 and the case was fixed for prosecution evidence on 24.08.2023.

8. That on 24.08.2023, prosecution witnesses were not present. The summons issued to witnesses not received back either served or unserved, therefore, the case was adjourned to 16.11.2023 for PWs.

9. That on 16.11.2023, no PWs were present despite summons issued, but summons not received back served or unserved, then the case was fixed on 25.01.2024 for prosecution evidence.

10. That on 22.01.2024, the case file was taken up due to leave of Presiding Officer from 23.01.2024 to 25.01.2024, hence, the case was adjourned to 18.04.2024 for prosecution evidence.”

A report was also sought from learned trial Court on 12.03.2024 as to why the prosecution witnesses were not been recorded despite accused being in custody since 14.05.2022. The said report has been received; relevant whereof reads as under:-

“7. It is humbly submitted that since the order dated 28.03.2023, the summons to prosecution witnesses were being regularly issued, however, the same were not received back either served or unserved. Now the case is fixed for 18.04.2024 for prosecution evidence. The undersigned is

making all possible efforts to ensure the presence of prosecution witnesses on 18.4.2024 for their examination. Moreover, the undersigned undertakes to expedite this case by giving short adjournments and by further making all possible efforts to ensure the presence of prosecution witnesses on each and every date, fixed for prosecution evidence.”

7. The petitioner was arrested on 14.05.2022 whereinafter investigation was carried out and challan stands presented on 13.06.2022. Total 14 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether Section 304-B of IPC is made out against the petitioner in the facts and circumstances of the given case as also the veracity/weightage required to the fact of no complaint of dowry harassment having earlier being made by the family of the deceased or the deceased herself; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible 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 custody certificate dated 02.04.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year and 10 months & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his 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 himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his 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

April 04, 2024
Ajay