

300-B

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11503-2024 (O&M)

Date of Decision: 14.03.2024

Ravinder Kaur

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. R.S. Bajaj, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

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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.128 dated 05.12.2023 registered for offences punishable under Sections 306/120-B IPC (Vide report dated 05.02.2024, Section 306 IPC has been deleted and Section 304-B IPC has been added) at Police Station Shimlapuri, District Ludhiana.

2. The case set up in the FIR in question is as follows:-

“Statement of Baldev Singh son of Harbans Singh resident of House No.5889, Gali No.21, Mohalla New Shimlapuri, Ludhiana aged about 53 years, Mobile No.9646340387. Stated that I am resident of above mentioned address and I have three children i.e. two sons and one daughter. Marriage of my eldest daughter Navdeep Kaur took place on 2.7.2023 in hotel Presidency, Gill Road Ludhiana with Sukhwinder Singh son of Balbir Singh resident of G.K. Country, H.No.608, near KFC Ramgarh, P.S. Jamalpur, Ludhiana as per Sikh Religious Rites. My daughter remained alright in the house of her in-laws for 10-15 days after the marriage. After that they had been taunting her regarding past and being from poor family and they used to ridicule her. Tolerating all these things, my daughter tried to rehabilitate in the said house. After some days on 24.9.2023, husband Sukhwinder Singh and his mother Ravinder Kaur picked up

fight with my daughter Navdeep Kaur and while fighting, they started giving her beatings. In the said fight, husband Sukhwinder Singh gave a blow on the eye of his own mother for which she got treatment in CMC Hospital Ludhiana. Seeing all this, my daughter Navdeep Kaur became frightened and told about it on phone in the evening and asked to take her along. After coming to home, my daughter told that her mother in law used to give medicine of depression to her husband Sukhwinder Singh after mixing the same in vegetables and sometimes her husband used to behave like a mad person. Thereafter with the consent of my daughter, we appeared before Worthy Commissioner of Police Ludhiana and submitted a complaint bearing No.UID 241351 against husband Sukhwinder Singh, father in law Balbir Singh, mother in law Ravinder Kaur, sister in law Harpreet Kaur and her husband Harsimran Singh. Inquiry of the same was pending before Women Cell Ludhiana. Today, they had called both the parties in P.S. Women Cell Ludhiana in connection with inquiry of the said complaint. On behalf of first party, Navdeep Kaur, father Baldev Singh, mother Paramjit Kaur, brother Daljit Singh, maternal uncle Hardial Singh, maternal uncle Jasbir Singh had come in connection with inquiry of said complaint. On behalf of second party, father in law of Navdeep Kaur namely Balbir Singh, mother in law Ravinder Kaur and some unknown persons had come in P.S. Women Cell. Inquiry officer ASI Makhan Singh asked both the parties to sit on one side and hold talks. Both the parties talked with each other but nothing was materialized. As such the inquiry officer adjourned the matter for 11.12.2023. On the earlier dates, mediator in the marriage of my daughter namely Harsimran Singh and his wife Harpreet Kaur had come to P.S. Women Cell Ludhiana and had participated in the inquiry of the complaint in P.S. Women Cell Ludhiana. They had used words regarding caste against my daughter Navdeep Kaur and taunted regarding dowry articles and levelled allegations that she was having illicit relations with father in law and yesterday on 4.12.2023 also, they levelled same allegations. After hearing the same, my daughter Navdeep Kaur came under depression. She could not tolerate the said allegations and as she was all alone in the house, she locked herself in the house and committed suicide after hanging herself with the fan with a dupatta and finished herself. Appropriate Legal action be taken against the above named persons. Statement has been got recorded, heard and same is correct. Sd/- Baldev Singh 9646340387.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 05.12.2023 and investigation in the case already stands completed. Learned counsel for the petitioner has further argued that there

have warranted the deceased to have taken the extreme step. Learned counsel for the petitioner has referred, *in extenso*, to the photographs (copy whereof has been appended as Annexure P-2) as also screenshots of various whatsapp messages exchanged between the deceased and her husband (copies whereof have been appended as Annexures P-3 to P-8 with the instant petition) to argue that there was cohesive relationship between the deceased and her husband and thus there was no cause for her to have taken the extreme step. Thus, regular bail is prayed for.

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

6. The petitioner was arrested on 05.12.2023 whereinafter investigation was carried out & challan was presented on 27.02.2024. Total 10 prosecution witnesses have been cited and culmination of the trial will take its own time. The petitioner is a lady aged 53 years and hence her bail petition is required to be considered, with some latitude, in terms of Section 437 of Cr.P.C. It would be apposite to refer herein to the dicta of a judgment of the Hon'ble Supreme Court in a case of ***Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51***, which held as under:

“51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases,

upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

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58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors.”

The rival contention of the learned counsel for the parties as to whether the offence of Section 304-B IPC is made out against the petitioner in the facts and circumstances of the case 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 perceptible 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 08.03.2024 filed

by the learned State counsel, the petitioner has suffered incarceration for more than 03 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.

7. In view of totality of factual matrix of the present case, the instant 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.

8. 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.
9. Ordered accordingly.
10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

14.03.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No