

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-13057-2024
Date of decision: 09.04.2024

DEVENDER @ DABU

....Petitioner

V/s

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Kunal Dawar, 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.714 dated 12.11.2022 registered for the offences punishable under Sections 323, 498-A & 304-B of IPC, 1860 at Police Station City Palwal, District Palwal.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To the SHO, Hathin, Palwal Gate. Complaint against 1. Devender Singh 2. Sumer Singh 3. Indira 4. Dheeraj 5. Bharti residents of Kannugo Mohalla, Palwal, Haryana regarding giving mental and physical torture to her sister Yashoda for dowry, giving beatings and committing murder. Sir, it is requested I Lakhman Saini s/o Mohan Lal Saini resident of MCF-3974, Sanjay Colony Sector 23-A. We are three sisters and two brothers. My sister Yashoda is the youngest of all the brother. Yashoda had got married to accused no. 1 Devender Singh on 03.12.2017 according to Hindu Rituals in community center Sector 23A Faridabad. In the marriage of Yashoda my father had given dowry more

than his capacity and spend around Rs. 20 lakh. In the marriage my father had given 1 Apache 150 motorcycle, 200 gm gold, Rs. 2,11,000/- in cash, all the electronic items to the accused person and also given cloths to the relatives, cash, furniture and all the household items, above mentioned accused person was not happy of this and start taunting Yashoda for bringing less dowry, cash and not giving swift car in the marriage and slowly above mentioned accused for their dowry demand of swift car and Rs. 5.00 lakh cash start giving beatings to her. In Ma*y_{r} 2018 above mentioned accused had thrown out Yashoda after giving her beatings when she was pregnant. Yashoda alone reach the Faridabad and told us about the dowry demand of above mentioned accused person. She told that her husband is drug addict and in connivance of the above mentioned accused person gave beatings to me. On 10.06.2018 we had called panchayat at our house in Faridabad, where above mentioned accused person had accept their mistake and gave assurance there from now onwards they will not torture Yashoda for dowry. The things were find for few days but thereafter above mentioned accused person again start harassing Yashoda for above mentioned dowry demands. On 06.09.2018 Yashoda gave birth to one boy Harash and in chhuchhak ceremony, we have given Rs. 1,51,000/- in cash but there is no effect in their behavior. In October, 2020 when Yashoda was again pregnant was thrown out of the house to get fulfill their demand of swift car and Rs. 5 lakh cash from my father. On 16.11.2020, we had again convened panchayat in Faridabad, where above mentioned accused person had accepted their mistake again and took Yashoda with them. On 09.12.2020, Yashoda had given birth to one girl Palak and in Chhuchhak ceremony we had gave Rs. 1,11,00/- in cash and other items to accused person but accused person did not mend their ways and their behavior towards Yashoda become more worse. These person for their dowry demand gave beatings to Yashoda, starve her and lock her in a room. When Yashoda used to tell us on call and we ask same thing from the accused person, then these accused person threaten us that till our dowry demand were not fulfilled we will harass and beat Yashoda. On 27.10.2022 Yashoda came to our house at Faridabad and stated everything to us that Devender is drugist and came intoxicated condition every day and in connivance with above mentioned accused person for their dowry demand gave beatings to me and did not

allow me to go outside and neither let me talk to someone else. The gold you had given them is already sold by them. On 30.11.2022, when Devender came to take Yashoda we made him understand but Devender told that he want swift car and Rs.5 lakh in cash then only he will not harass her. After going from Faridabad the accused person did not allow Yashoda to call us. On 10.11.2022 at around 4.00pm Yashoda called her elder sister Geeta and stated that above mentioned accused person beats me every day for dowry and kept lock in a room and also threatens that now no panchayat will be convened and if your father will not fulfill our demand of dowry then I will kill you. My sister Geeta explained to Yashoda that we will come on Sunday and took you with us. On 11.11.2022 at around 04:13PM accused Sumer Singh called me and told that Yashoda is dead and disconnect the call. I alongwith my family immediately left for the matrimonial house of Yashoda. After reaching there I call on 112 to police. Therefore, it is prayed that above mentioned accused person for their dowry demand had killed my sister Yashoda through mutual conspiracy. Appropriate legal action be taken against them. It will be very kind thanks dated 12.11.2022 complainant sd/- Laxman Saini Laxman Saini s/o Sh. Mohan Lal Saini resident of MCF-3974 Sanjay Colony Sector- 23A Faridabad Mob.No. 9999079029.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 15.11.2022. Learned counsel for the petitioner has further argued that the marriage between the petitioner and the victim took place on 03.12.2017 and no complaint whatsoever was earlier made by the victim or her family members regarding any kind of dowry harassment being meted out to the deceased and/or her family members. Learned counsel for the petitioner has further referred, *in extenso*, to the FIR in question to argue that the complainant (brother of the deceased) had initially given a statement to the police that he would think over the matter and thereafter make statement. Learned counsel for the

petitioner has further submitted that the application under Section 319 of Cr.P.C. filed by the complainant for summoning of the additional accused has been dismissed by the concerned Court on 21.02.2024 and the said order remains unchallenged till date. The complainant is intentionally not coming forward to have his testimony recorded as a prosecution witness and in this context, learned counsel for the petitioner has relied upon an order dated 21.03.2024 passed by the trial Court wherein bailable warrants for the appearance of the complainant have been issued. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of 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 15.11.2022 whereinafter investigation was carried out & challan was presented on 30.01.2023. Total 17 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contentions of the learned counsel for the parties; regarding no complaint whatsoever was earlier made by the victim or her family members regarding any kind of dowry harassment being meted out to the deceased and/or her family members as also regarding the initial statement of the complainant being given before the police or not; and as to whether or not the complainant is intentionally avoiding the recording of his testimony; 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 remaining prosecution evidence. As per the custody certificate dated 08.04.2024 filed by the learned State counsel, petitioner has suffered incarceration for about 01 year, 04 months and 24 days & 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 present case.

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 his furnishing bail/surety bonds to the satisfaction of the learned 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/Illaqa 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.

(SUMEET GOEL)
JUDGE

April 09, 2024
poonam

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