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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14665-2024 (O&M)
Date of decision: 24.10.2024

Balraj Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nikhil Ghai, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Sunny Saggar, Advocate
for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

1. This second petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking regular bail in case bearing FIR No.54 dated 30.03.2023 under Sections 304-B & 34 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Sadar Patti, District Tarn Taran; as first petition i.e. CRM-M-57953-2023 was dismissed as withdrawn on 22.11.2023.

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2. The present FIR was registered on the basis of statement made by father of the victim, on the allegations that marriage of his daughter 'N' was solemnized with the petitioner on 05.10.2020. On 30.03.2023, the deceased telephonically informed to him that her husband (petitioner), father-in-law and mother-in-law are harassing and taunting her for demand of dowry and a fortuner car. On the same day, at about 12.30 p.m., father-in-law of the deceased informed the complainant that his daughter had committed suicide by hanging herself.

3. Learned counsel for the petitioner, *inter alia*, contends that this second petition has been filed on the ground that the petitioner is in custody for the last more than 18 months and the trial has not made any substantial progress and the complainant has already been examined by learned trial Court. It is further contended that there are general and sweeping allegations with regard to demand of dowry and demand of Fortuner car after 03 years of marriage, which are highly improbable and too far-fetched. Initially, an inquiry was conducted in the matter by senior police officer and categoric findings were recorded that after attending the marriage, both husband and wife returned home happily and deceased used to suspect the petitioner of having an extra-marital affair and as such, there used to be frequent bickering between both of them. On the date of incident, the deceased suspected that the petitioner is talking with someone on phone and thereafter, she committed



suicide. The petitioner is serving as an Army Officer and he used to visit his home only during vacations and since the date of marriage, there has been no complaint whatsoever with regard to any allegation of demand of dowry. It is further contended that one of the independent prosecution witness has not supported the case of the prosecution, while appearing as PW2 namely Baljit Singh, therefore, he has been declared hostile. The petitioner is behind bars since 02.04.2023 and he is not involved in any other case.

4. *Per contra*, learned counsel for the complainant vehemently opposes the prayer for grant of regular bail to the petitioner on the ground that the ingredients of Section 304-B of IPC are complete, as such, in view of presumption contained in Section 113-B of Indian Evidence Act, the petitioner is not entitled to any relief and it is incumbent upon him to explain the circumstances, under which the deceased has died of unnatural death.

5. Learned State counsel opposes the prayer made by the petitioner on the ground that there are serious and specific allegations against the petitioner and the complainant has been partially examined and he reiterated his allegations against the petitioner.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is in custody for the last 01 year, 06 months and 17 days as on 22.10.2024 and the trial of the case has not even reached halfway mark as only 06 out of 15



prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

7. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

8. In view of the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Balraj Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned

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Illaqa Magistrate/trial Court concerned.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned trial Court shall proceed without being prejudiced by the observations of this Court.

24.10.2024
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[HARPREET SINGH BRAR]
JUDGE

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