

Date of Decision: 15.04.2024

.....Respondent

Rajesh Bhardwaj, J. (ORAL)

Adumbrated facts of the case are that statement of Simarjit Kaur was recorded by learned JMIC, Bathinda (D) on 22.04.2018. It was deposed by the complainant that she was married with Amrik Singh i.e. the petitioner on 29.10.2006 and thereafter, the petitioner doubted her fidelity and thus, there arose a dispute in the family. Though the matter was compromised with the intervention of relatives, however, the things did not improve and thus, her husband Amrik Singh on instigation by her mother-in-law threw petrol on her and set her ablaze. On the basis of the statement made, the FIR was registered and the investigation commenced. During the treatment, the complainant, namely, Simarjit Kaur succumbed to her injuries and thus, the offence under Section 302 IPC was added. On the completion of the investigation, challan was presented and thereafter, on framing of charges, the trial commenced. The petitioner was arrested on 25.04.2018. He approached the Court of learned Additional Sessions Judge, Bathinda for grant of bail, however, the same was declined vide order dated

17.07.2020. Thereafter, the petitioner approached this Court by way of filing CRM-M-43736-2020 for grant of bail, however, the same was declined vide order dated 05.07.2022. Hence, the petitioner has approached this Court again by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case only being the husband of the deceased. He submits that the marriage had taken place on 29.10.2006 and the alleged incident had taken place on 22.04.2018. The couple was blessed with two children. He submits that except the normal wear and tear in the family, there was no such dispute as alleged by the deceased. He submits that the petitioner is behind bars since 25.04.2018 and he has completed incarceration of about six years. He submits that the trial is not concluded despite such a long custody of the petitioner. He has drawn the attention of this Court to the copies of zimini orders of the trial Court from 22.01.2021 to 30.03.2024, to show that no prosecution witness was ever produced by the prosecution and thus, the trial is being delayed only in order to prolong the incarceration of the petitioner. He submits that the co-accused i.e. the mother of the petitioner has already been granted bail by this Court. He further submits that in the facts and circumstances of the present case, the petitioner deserves to be granted bail.

Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that the case is based on dying declaration made by the deceased which required no corroboration. It is submitted that there are specific allegations made by the deceased of throwing petrol and setting her ablaze by the petitioner. It is submitted that out of total 22 prosecution witnesses 10 witnesses have been

examined. He further submits that no ground is made out to grant bail to the petitioner.

Heard.

Evidently, the case is based on dying declaration made by the deceased and the petitioner is none other than her husband. However, it is apparent that the petitioner is behind bars since 25.04.2018. From the custody certificate produced, it is revealed that the petitioner has completed 5 years 11 months and 25 days of sentence as on 14.04.2024. It further reflects that the petitioner is not involved in any other case. In view the custody certificate of the petitioner, it is apparent that the petitioner has completed almost six years behind bars. Needless to say that speedy trial is the right of the every accused. However, only 10 witnesses have been examined by prosecution out of 22 witnesses, till date. This Court would refrain itself from commenting anything on the merits of the case. However, considering the prayer for grant of bail to the petitioner, this Court is of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner.

Considering that the trial would take sufficiently long time in its conclusion, the present petition is allowed and the petitioner is ordered to be released on bail subject to the satisfaction of the concerned trial Court/Duty Magistrate.

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

15.04.2024

sharmila

Whether Speaking/Reasoned

Whether Reportable

:

:

Yes/No

Yes/Nos

(RAJESH BHARDWAJ)

JUDGE