

CRM-M-16851 of 2024

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M-16851 of 2024

DATE OF DECISION :- 10.09.2024

Lakhwinder Singh @ Kali

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. K.S. Brar, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

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 26.10.2023, registered for the offences punishable under Sections 306,498-A of IPC at Police Station Sadar Jalalabad, District Fazilka.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Statement of Balvir Singh son of Pokhar Singh son of Shankar Singh resident of village Jodha Bhaini, Police Station Sadar Jalalabad, aged about 53 years mobile No. 94172-36971. I would like to state that I am resident of above noted address and I have two daughters and two sons, out of them, elder daughter Kailash Rani was married about 12years ago with Lakhwinder Singh alias Lali son of BalwantSingh resident of village Chakk Bhamba Wattu @ Jawaley Wala and she has two children out of this wedlock i.e. elder son Anosh Singh aged about 9 years and younger is daughter. My daughter whenever came to meet us, she informed us that her



husband Lakhwinder Singh is abusing her by consuming liquor and beating me. We used to send our daughter Kailash Rani back to her in-laws house by making her understood that everything will be settled. Some days ago from today, with regard to their dispute, gathered at their village Chakk Bhamba Wattu @ Jawaley Wala and make Lakhwinder Singh understood by the Panchayat. Today at 7.30 PM, we received information that due to the beating and harassment by Lakhwinder Singh, our daughter Kailash Rani has committed suicide. I along with my relatives reached at village Chakk Bhamba Wattu @ Jawaley Wala then the dead body of my daughter Kailash Rani was hanging with the Chugath of kitchen with rope. I and Harjinder Singh son of Balvir Singh, Mahinder Singh son of Khushhal Singh residents of village Jodha Bhaini and other relatives came to the spot and informed you through mobile phone and you reached to the spot and have recorded my statement. My daughter Kailash Rani has committed suicide due to the harassment and beating caused by her husband Lakhwinder Singh, action be taken. Statement got recorded, heard same is correct. LTI of Balvir Singh, above said Sd/- Sharma Singh son of Guria Singh resident of village Dhand Kadeem,, attested by Sd/- Hardev Singh, ASI, Incharge Police Post Ghubaya, Police Station Sadar Jalalabad dated 26.10.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 26.10.2023. Learned counsel for the petitioner has further substituted that the marriage between the petitioner and the deceased took place 12 years ago and there was no such acrimony between the petitioner and the victim which could have led the victim to commit suicide on account of any error/fault on part of the petitioner. To buttress his arguments, learned counsel for the petitioner has relied upon the dicta of the judgement of Hon’ble Supreme Court in Criminal Appeal No.3578 of 2023 titled as ‘***Mohit Singhal & Anr. Vs. The State of Uttarkhand & Ors.***’, (***Neutral Citation No.2023 INSC1035***); relevant whereof reads as under:-



“9. In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide.”

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 09.09.2024 in Court, which is taken on record.

5. Mr. Sameydeen, Advocate for Mr. Kuldip Singh, Advocate has filed vakalatnama for complainant- respondent No. 2. The same be taken on record.

Learned counsel for complainant-respondent No. 2 has vociferously opposed the grant of regular bail by arguing that the allegations made against the petitioner are serious in nature and hence regular bail ought not to be granted to the petitioner.

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

7. The petitioner was arrested on 26.10.2023 whereinafter investigation was carried out and challan stands presented on 19.10.2023.



Total 14 prosecution witnesses have been cited out of which 05 already stand examined. It is not in dispute that all the private witnesses stand examined. The rival contention of learned counsel for the parties; as to whether offence of Section 306 of IPC is made out against the petitioner or not & as to whether there was any acrimony between the petitioner and the deceased which led to the deceased committing suicide; 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 09.09.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 10 months. The said custody certificate also reflects that the petitioner is involved in two other cases but this factum by itself would not be sufficient to decline the concession of regular bail to the petitioner in the instant 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 interim 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 cell-phone 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

10.09.2024
P.Singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No