



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

292+108

**CRM-M No.19078 of 2024 (O & M)
Date of decision : 20.8.2024**

Sahil**Petitioner**

Versus

State of Haryana and another**Respondents**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. DPS Bajwa, Advocate and
Mr. Rahul Singh, Advocate, for the petitioner
Ms. Priyanka Sadar, AAG, Haryana
None for respondent no.2

SUMEET GOEL, J. (ORAL)

The petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail to him in case bearing FIR No.303 dated 9.8.2023, registered for the offences punishable under Sections 304-B and 498-A of the IPC (Section 34 of IPC deleted later on) at Police Station Barauda, District Sonapat.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

‘Stated that I, Pinki w/o Sanjay Kumar, am R/o village Daboda, at present MD Road, Gopal Nagar, Najafgarh. I have two daughters and one son. I had solemnized marriage of my younger daughter namely Asha Natki on 14.11.21 with Sahil son of Surajmal r/o Butana with fanfare. In the marriage, we had given dowry beyond our capacity. After few days of marriage, Asha's husband Sahil, brother-in-law/ jeth Sachin, sister-in-laws/nanad Shweta, Sweety, mother-in-law Seema started harassing Asha for bringing more dowry. My daughter Asha told me many times by



making phone calls that her in-laws had been harassing her with regard to dowry. On 8.8.2023, in the evening also, my daughter Asha made a phone call and told me that her in-laws were beating her for bringing car and other articles. Thereafter, in the night at about 11 p.m. or 12 O'clock, the phone call of mother-in-law of my daughter namely Seema was received to the effect that Asha had expired due to heart failure. Upon getting information, I have come with my family. My daughter Asha has been killed by her above said in-laws due to non-fulfilling of demand of dowry. Legal action be taken against all of them. Sd/- Pinki w/o Sanjay Kumar.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 10.8.2023. Learned counsel has further submitted that as per the medical evidence brought forward alongwith the challan, no specific cause of death could be ascertained and there was oedema in the lungs as also partial autolysis in the lungs. Learned counsel for the petitioner, on the basis of medical opinion appended with the chalan, has argued that the offence under Section 304-B of IPC is not made out from the factual matrix of the case. Learned counsel further argued that the prime prosecution witness, namely PW Pinky (mother of the deceased/FIR complainant) is not coming forward to have her testimony recorded, whereas she was earlier bound down by the Court and thereafter, bailable warrants have been issued against the said prosecution witness alongwith another prosecution witness, namely PW Pawan. Thus, regular bail has been prayed for.

4. Learned State counsel 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 the regular bail. Learned State counsel seeks to place on record custody certificate dated 12.8.2024 in Court, which is taken on record.



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

6. The petitioner was arrested on 10.8.2023 whereinafter investigation was carried out and challan stands presented on 8.11.2023. Total 22 prosecution witnesses have been cited in the trial and culmination of the trial will, of course, take its own time. A perusal of the orders dated 24.4.2024 as also 5.8.2024 passed by the trial Court reflect that the prosecution witnesses are not turning up for having their testimonies recorded.

7. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another,*** decided on 03.07.2024; relevant whereof reads as under:-

“19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

8. The rival contention of learned counsel for the parties; as to whether the offence under Section 304-B of IPC is made out against the



petitioner from the factual matrix of the case and the relevance weightage/veracity required to be attached with the challan; 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 12.8.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year and 3 days & is shown to be involved in one another case wherein the petitioner was discharged by the concerned Court vide order dated 1.11.2023.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

9. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular 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/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

10. 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.
11. Ordered accordingly.
12. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
13. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

20.8.2024
Ashwani

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