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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18809-2024 (O&M)
Date of Decision: 29.07.2024

GURDEV SINGH

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. A.S. Dhaliwal, 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.31 dated 12.06.2023, registered for the offences punishable under Sections 306/116 IPC (Section 116 of IPC deleted later on) at Police Station Bajakhana, District Faridkot, Punjab.

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

“Statement of Karamjit Kaur wife of Gurdev Singh son of Inder Singh resident of Behbal Khurd, aged 35 years, Mob. 88474- 35041. Stated that I am a resident of the abovementioned address and work as laborer. I was married about 8-9 years ago to the said Gurdev Singh, from whom, a boy and a girl were born. That my husband used to beat me without any rhyme or reason. Due to which, I have been staying at my parental village for almost 2 years. About 2 months ago, my in-laws family took me on the request of the Panchayat. A few days thereafter, my husband Gurdev Singh and mother-in-law Reshma beat me up. On 10.06.2023 at around 8 AM, I consumed grass burning chemical on getting fed up from them. On behalf of my in-law's family, member Panchayat member Harjinder Singh admitted me to Rajan

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Hospital, Kotkapura, whereby the doctor is treating me. That the cause of dispute is such that my mother-in-law and my husband used to taunt me on pity matters and my husband twisted my arm and punched me and beat me up. That legal action may please be taken against my husband Gurdev Singh and my mother-in-law Reshma. Sd/- Karamjit Kaur.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 17.06.2023. Learned counsel has further argued that the deceased had, in fact, committed suicide on account of wrangling arising out of routine matrimonial discord and thus the offence under Section 306 of IPC is not made out against the petitioner. Learned counsel for the petitioner has further argued that the co-accused, namely, Resham Kaur @ Reshma has been granted the concession of regular bail by this Court vide order dated 13.02.2024 passed in CRM-M-58220-2023 (copy whereof has been appended as Annexure P-3 with the instant petition). Learned counsel, in order to buttress his argument, has relied upon the dicta of the judgment of the Hon’ble Supreme Court in the case of ***Mohit Singhal & another vs. The State of Uttarakhand & others***, reported as 2023 INSC 1035, 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.”

Thus, regular bail is prayed for.



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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.

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

6. The petitioner was arrested on 17.06.2023 whereinafter investigation was carried out & challan was presented on 11.08.2023. Total 18 prosecution witnesses have been cited out of which 4 stands examined and 3 have been given up by the prosecution. It is not in dispute that all private witnesses already stand examined. The rival contention of the learned counsel for the parties; as to whether the offence under Section 306 of IPC is made out in the present case; 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 27.07.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 01 year 01 month and 09 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 Ld.

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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/Illaq 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.

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11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

29.07.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No