



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRM-M-23241-2024

Date of Decision: 14.05.2024

Abhishek @ Abhishek Kaushik

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. P.S. Ahluwalia and Ms. Bhavi Kapur, Advocates
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 550 dated 05.12.2022 (Annexure P-1) registered under Sections 302 and 304-B read with Section 34 IPC at Police Station Sector-27, District Sonapat.

The aforesaid FIR was registered on the basis of a complaint moved by father of the deceased, which is reproduced as under:-

".... Sir, it is submitted that I, Rajbir S/o Sh. Mahender Singh is resident of Village Bajana Kalan, P.S. Gannaur, Sonipat and around three years back I had solemnized the marriage of my elder daughter Indu, aged 23 years, with Abhishek S/o Prem Chand R/o Sector 7, Sonipat as per Hindu rites and rituals. Ever since beginning of marriage my daughter Indu was being repeatedly harassed by her husband Abhishek, father in law Prem Chand and mother in law Kaushalya for bring dowry and had been repeatedly demanding vehicle in dowry. Due to greed of dowry and for non-fulfillment of their demand dowry, on 04/12/2022 at



around 8:30 p.m., my daughter Indu has been kill together by her husband Abhishek, father in law Prem Chand and mother in law Kaushalya. Legal action may be taken against them.....”

Learned counsel for the petitioner, *inter alia*, submits that petitioner is the husband of the deceased and has been in custody since the date of his arrest i.e. 12.12.2022. At the very outset, learned counsel for the petitioner submits that out of total 40 prosecution witnesses, only 08 have been examined, so far. However, the material witnesses i.e. the complainant/father of the deceased and mother of the deceased have already been examined. In this regard, learned counsel for the petitioner has made a reference to the testimony of the complainant as PW-1 (Annexure P-15), specifically to his cross-examination (at page 71 of the paper-book), to submit that although, it has been alleged that petitioner's side was harassing the deceased for demand of dowry, however, the complainant in his cross-examination had admitted that no complaint was ever made by them regarding the alleged demand of dowry to the police or any other authority. The complainant has further admitted therein that the accused persons were already having a car and two motorcycles. The complainant had also admitted that co-accused/father-in-law of the deceased had transferred an amount of Rs.4,50,000/- in the account of the deceased; and that the deceased was taking coaching of typing and computer operations and also that she had completed her graduation after the marriage and all expenses thereof had been paid by petitioner's side. Learned counsel for the petitioner also refers to the testimony (Annexure P-16) of the mother (PW-3) of the deceased, wherein similar admissions



have been made by the said witness in her cross-examination.

Further, it is submitted that one child was born out of the wedlock of the petitioner with the deceased and on instructions from the father of the petitioner who is present in Court, learned counsel submits that the minor child is in the custody of the parents of the petitioner. It is stated that cause of death is hanging as mentioned in the final report/challan (Annexure P-2), as well as in the Postmortem Report (Annexure P-3).

Lastly, it is submitted that co-accused of the petitioner i.e. his parents/father-in-law and mother-in-law of the deceased have already been granted the concession of regular bail vide orders dated 14.07.2023 and 08.11.2023 (Annexures P-13 and P-14, respectively). All material witnesses including the complainant/father and mother of the deceased have already been examined. The trial is likely to take a long time to conclude. Thus, it is prayed that petitioner be released on regular bail.

On the other hand, learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that the death of the deceased has occurred within 03 years of marriage. Learned State counsel refers to the reply dated 11.07.2023 (Annexure P-12) filed on behalf of respondent-State in a petition bearing CRM-M-18194-2023 filed by the father-in-law of the deceased (at page No. 54 of the paper-book) and specifically to para No. 4 of the said reply, wherein, it has been stated that *'on 20.12.2022 complainant side produced the pen drive containing audio recording of calls between the deceased Indu and her sister namely Rakhi on 15.06.2022 at 7.52 p.m. and between*



deceased Indu and Meena wife of Ravinder on 04.09.2022, in which deceased can be heard while stating that her in laws used to subject her cruelty and harass her'. Further, it is submitted that co-accused of the petitioner i.e. father-in-law and mother-in-law of the deceased have been granted the concession of regular bail vide orders dated 14.07.2023 and 08.11.2023 (Annexures P-13 and P-14, respectively), keeping in mind the ages of the said co-accused.

Learned counsel for the State has filed custody certificate dated 13.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year and 05 months. As per custody certificate, there is no other case against the petitioner. On instructions from ASI Amarjit, learned counsel for the State informs that out of total 40 prosecution witnesses, 08 witnesses have been examined by the learned trial Court so far.

At this stage, learned counsel for the petitioner submits that in para No. 6 of the said status report (Annexure P-12) (at page 60 of the paper-book) the aforesaid financial transactions of Rs.4,50,000/- have been admitted by the respondent-State.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; including the custody period of 01 year and 05 months undergone by the petitioner as an undertrial and perusal of the custody certificate reveals that there is no other case against the petitioner; and the fact that material witnesses i.e. the complainant and mother of the deceased have already been examined;



and also the fact that conclusion of trial will take considerable time as out of total 40 prosecution witnesses only 08 have been examined so far, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Abhishek @ Abhishek Kaushik S/o Shri Prem Chand, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

14.05.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No