



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

213

CRM-M-23783-2024
Date of decision: 16.05.2024

Paramjit Kaur w/o Balwinder Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Brijesh Nandan, 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.72 dated 19.12.2023 registered for the offences punishable under Sections 306 and 34 of IPC at Police Station Talwandi Chaudhrian, District Kapurthala.

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 Jaswinder Kaur W/o Dalbir Singh R/o Batala Police Station Dhilwan District Kapurthala aged around 60 years Mobile No. 86994-73722 stated that I am a resident of the afore-mentioned address and work as a housewife. I have for children among whom my eldest son namely Baljeet Singh and younger to him is my daughter Usha Rani and younger to her is my son



Sukhjinder Singh and the youngest of all is my daughter Kajal aged around 24 years who on dated 06.05.2021 on her own wish got married to Lakhwinder Singh S/o Balwinder Singh R/o Bidhipur Police Station Talwandi Chaudhariya. After six months of their marriage, he (Lakhwinder Singh) and the in-laws of my daughter Kajal started troubling her and we tried to settle the matter personally as well as via panchayat and to decide the same. Regarding this matter we gave a complaint in the police station Talwandi Chaudhariya against the father in-law Balwinder Singh S/o Singhara Singh but the same was compromised with the intervention of respectable persons and the panchayat as well. But they didn't mend their ways and my daughter Kajals' husband Lakhwinder Singh, her father-in-law Balwinder Singh, her mother-in-law Paramjit Kaur W/o Balwinder Singh continued troubling her and didn't mend their ways at all. Kajal called us several times that her in-laws are troubling her repeatedly and beat her up. I am very upset that I might kill myself. That yesterday on dated 18-12-2023 at night around 10:00P.M. Lakhwinder Singh gave us a call and told us that your daughter Kajal hanged herself with a joist. And I hurriedly got her down from the joist and took her to the hospital where the doctor declared Kajal dead. You also come to the hospital and we are also taking Kajal's dead body to Civil Hospital Sultanpur Lodhi Mortuary and submitting the same. I am absolutely sure that my daughter has committed suicide on the pretext of harassment caused by Lakhwinder Singh S/o Balwinder Singh, father-in-law



Balwinder Singh and mother-in-law Paramjit Kaur W/o Balwinder Singh. For my daughter's death, her husband, mother-in-law and father-in-law are responsible. Today, I have got recorded statement with you after reaching Civil Hospital Sultanpur Lodhi and legal action should be taken against them. I have got my statement written and also heard it and the same is found to be correct. I have got recorded this statement in the presence of my son Sukhjinder Singh. RTI Jaswinder Kaur along with Sd/- Sukhjinder Singh Sukhjinder Singh (confirmer) Verification SD Baldev Singh ASI Police Station Talwandi Chaudhariya Dated 19-12-2023”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.12.2023. Learned counsel for the petitioner has further argued that the marriage between the deceased-Kajal and the son of the petitioner was a love marriage which took place on 06.05.2021 but the couple could not pull-on well together due to temperamental differences between them. Learned counsel for the petitioner has further argued that the petitioner is a lady aged about 50 years and does not keep very good health. Learned counsel for the petitioner has further argued that the offence of Section 306 of IPC is not made out in the factual matrix of the present case. Learned counsel, in order to buttress his argument, has relied upon the ratio *decidendi* 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.

4. Learned counsel for the State 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 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 19.12.2023 whereinafter investigation was carried out & challan was presented on 16.02.2024. Total 14 prosecution witnesses have been cited and culmination of the trial will take its own time. The petitioner is a lady aged about 50 years and hence her bail petition is required to be considered, with some degree of latitude, in terms of Section 437 of Cr.P.C. This Court in the case of **Ravinder Kaur vs. State of Punjab**, passed in CRM-M-11503 of 2024 dated 14.03.2024, while relying upon the dicta of a judgment of the



Hon'ble Supreme Court in a case of **Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51**, has granted the concession of regular bail to the petitioner therein, relevant thereof reads as under:

“51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

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58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first



proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors.”

The rival contention of the learned counsel for the parties; as to whether the offence of Section 306 of IPC is made out against the present petitioner in the factual matrix of the 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



prosecution evidence. As per the custody certificate date 15.05.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 04 months and 25 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 learned 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 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.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

May 16, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No