



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

CRM-M-24287-2024

Date of Decision: 20.05.2024

Balwan Singh

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Samay Singh Sandhawalia, Advocate 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. 49 dated 14.02.2023 (Annexure P-1) registered under Sections 304-B read with Section 34 IPC at Police Station Kalayat, District Kaithal.

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

“To SHO (P.S. Kalayat) Kaithal. Sir, Respectfully submits that I, Gurbachan Singh S/o Sadhu Ram am resident of Cheeka. I have two sons and two daughters. All are married. My youngest daughter Pooja Devi d/o Gurbachan Singh was married with great pomp on 02.03.2020 as per rites and ceremonies. I gave as much dowry as I could as per my capacity. The boy Balwan Singh s/o Ramdiya is a resident of Badsikari and he is working as a Constable in Police



Department. Since beginning, he has been threatening her that he is in police department and what have her parents given in dowry. As he wanted a car and he was getting marriage proposals of people having cars. He used to harass her on daily basis on the issue of dowry and also used to beat her. At nights, he would beat her and throw her out of the house. Due to which, my daughter would come back to my house at Cheeka and stay home for 6/6 months and then after that his other sisters (Balwan) would come to the house, lie to me and bring her back. We also thought the same that they would understand and everything would be fine one day. Deceased Pooja came to know that Balwan was having an affair with another girl and having an illicit relationship with another girl. She also saw objectionable photos and videos of another girl in his mobile phone. In order to hide the said issue, he and his mother and sisters forcibly hanged my daughter, so that people would think that she had committed suicide. He continuously kept threatening to divorce her. Now, he had brought her back from home just few days ago and on the day of her death, he used to say that he will solemnize 10 marriages like this. Tonight on 13.02.2023, I got his phone call asking me that he kill her, otherwise come and take her along. I told him that I will come and take her along in the morning. Then at 11 O'clock, Balwan himself phoned me and said that Pooja has committed suicide. Whereas, this is not a suicide but murder has been committed by hatching a preplanned conspiracy. Therefore, it is respectfully prayed before you that stern legal action may kindly be taken against accused Balwan....”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner was married to the deceased on 02.03.2020 and one son was born out of the said wedlock, who is presently in the care and



custody of his paternal grandparents. In the intervening night of 13/14.02.2023, the deceased had committed suicide. As per postmortem report dated 14.02.2023 (Annexure P-2), cause of death is hanging. No external or internal injury was found on the person of the deceased, except the V-shaped ligature mark which shows that she had committed suicide herself and there was no strangulation on part of any other person. Learned counsel for the petitioner also refers to the challan/final report dated 04.04.2023 (Annexure P-3) and submits that it has been noted therein that as per CCTV footage, on the alleged date of incident, it was found that 03 persons including the present petitioner were sleeping in the Varandha/living room; whereas the deceased was found sleeping in her room along with her son. It was only during midnight, when they heard cry of the child from the room where the deceased was sleeping, sister-in-law of the deceased went inside the room through a window and unlocked the latch of the room, and then they called petitioner-Balwan Singh from the living room, where he was sleeping. Therefore, it is submitted that the allegations levelled in the FIR on the face of it are not made out. Further, it is submitted that there are discrepancies in the statements made by the father of the deceased/complainant, inasmuch as, in the FIR he stated that he received a call informing him about the incident at 10:00/11.00 p.m. at night; whereas, in examination-in-chief (Annexure P-4) before the learned trial Court the complainant as PW-1 had stated that he received the call at 2:30 AM in the morning. There are total 17 prosecution witnesses, out of which only examination-in-chief of the material witness i.e. the complainant has been recorded, so far. The



petitioner has been in custody since 14.02.2023, therefore, trial will take considerable time to conclude. Thus, it is prayed that the petitioner be released on regular bail.

Per Contra, learned counsel for the State has filed custody certificate dated 17.05.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year, 03 months and 03 days. As per custody certificate, there is no other case against the petitioner. Learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that there is a presumption against the petitioner, in view of allegations levelled in the FIR. On instructions from SI Vijay, learned counsel for the State informs that charges in the present case were framed on 24.07.2023 and out of total 17 prosecution witnesses, examination-in-chief of only 01 witness i.e. the complainant has been recorded after procuring his presence throughailable warrants.

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, 03 months and 03 days 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 out of total 17 prosecution witnesses, only examination-in-chief of the material witness i.e. the complainant/father of the deceased has been recorded so far, therefore, conclusion of trial will take considerable time, and no useful purpose would be served by further detention of the petitioner. Thus, the



present petition is **allowed**.

The petitioner-Balwan Singh S/o Ramdia 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.

20.05.2024
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(NIDHI GUPTA)
JUDGE

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