

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

CRM-M-25236-2024
Date of decision: 24.09.2024

....Petitioner

Versus

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.146 dated 05.08.2023 under Sections 498-A/304-B/34 of IPC registered at Police Station Line Par Bahadurgarh, District Jhajjar (Annexure P-1).

The FIR (*supra*) was lodged on the statement of the complainant by alleging that his daughter, namely, Priyanka, got married with the accused/petitioner in February, 2022 against their wishes by running away from home. It is further alleged that she was blessed with one son, namely, Ayush and after the marriage, her husband/petitioner and father-in-law used to harass and beat her for their illegal demand of dowry due to which on 04.08.2023, she consumed some poisonous substance to end her life and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The deceased daughter of the complainant has committed suicide as she was depressed due to



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the breaking of ties with her family. Even when she was blessed with a son, her parents did not visit her even once. He further relies upon the cross examination of the complainant (Annexure P-4) as PW-2 and submits that the complainant has admitted that his daughter has performed a love marriage with the petitioner and he has not given any dowry as his daughter had married to the petitioner without their consent and complainant and his wife did not even visit the matrimonial home of their daughter when she was blessed with a son. Further, the perusal of the case set up by the prosecution does not even remotely suggest that the deceased was subjected to any cruelty on account of demand of dowry immediately before her death. The petitioner is behind the bars since 24.08.2023 and the material witnesses have already been examined.

The learned State counsel has filed custody certificate and status report in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner is the husband of the deceased and the death of the deceased had taken place in the matrimonial home, as such, it is incumbent upon him to explain the circumstances under which the deceased had died of unnatural death.

A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable



for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 24.08.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not even reached half way mark as only 07 out of 17 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Janardhan @ Janardan Gupta is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of

opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

24.09.2024
Neha

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