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

CRM-M-29837-2023

Date of decision: 11.01.2024

Savita Devi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Ajay Pal Singh Rehan, Advocate for the petitioner.

Mr. G.S. Sidhu, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner for grant of regular bail having FIR No.40 dated 27.03.2023, registered under Sections 306 and 34 of IPC at Police Station Sadar Pathankot, District Pathankot.
2. The allegations in brief are that complainant Rano reported to the police that her son Sunny Kumar aged about 31 years got married with co-accused Gulshan Kumari real sister of petitioner, about 2 and a ½ years back. That there was marital discord between Sunny Kumar and his wife Gulshan Kumari and she often used to leave the matrimonial home after fighting with her husband Sunny Kumar. That Gulshan Kumari and petitioner used to harass Sunny Kumar and they also took away his minor son Mehar aged about 1 and a ½ year. That due to the persistent harassment caused by the petitioner and Gulshan Kumari. Sunny Kumar left the house on 26.03.2023 and on the next day his dead body was found lying in a vacant ground. That Sunny Kumar committed suicide by consuming some poisonous

substance, being fed up by the persistent harassment being meted out to him by the accused persons including the petitioner. That before ending his life, Sunny Kumar had written suicide note wherein he blamed his wife and petitioner to be responsible for his death.

3. The counsel for the petitioner submits that the petitioner is a married lady and has been falsely implicated in the present case at the instance of the complainant. That the petitioner is in custody since 27.03.2023 and his having no criminal history. It is further contended that the petitioner was having no intention to compel Sunny Kumar to end his life by committing suicide and she is not responsible for death of Sunny Kumar in any manner. It is further submitted that after completion of investigation, police has presented the challan against all the accused persons including the petitioner, but it will take considerable time for the trial to conclude. So prayer is made that the present petition be allowed.

4. The present petition is resisted by the State counsel who submits that petitioner and her sister Gulshan Kumari compelled Sunny Kumar to commit suicide. That both the accused were causing persistent harassment to Sunny Kumar and earlier to the present occurrence Sunny Kumar lodged complaint with the police against both the accused on 15.03.2023 wherein also he made allegations of persistent harassment and demand of money against his wife and the petitioner. It is further submitted that deceased left behind suicide note Annexure P-1 wherein also he blamed petitioner and Gulshan Kumari. However, the State counsel has not disputed the fact that the petitioner is in custody for the last more than 9 months and that at the trial is at its initial stage.

5. I have considered the submissions made by counsel for the parties.

6. Admittedly, in the present case, Gulshan Kumari and petitioner are accused. Gulshan Kumari is wife of Sunny Kumar who committed suicide by consuming some poisonous substance. Petitioner who is a married lady is real sister of Gulshan Kumari. The veracity of the suicide note stated to be left behind by the deceased will be tested during the trial which is going on. However, as per the State counsel, the report of FSL with regard to aforesaid suicide note is still awaited. Further it is a matter of evidence as to whether there was any intention on the part of the petitioner to compel the deceased to end his life by committing suicide. The Hon'ble Apex Court in *Shabbir Hussain Vs. The State of Madhya Pradesh and others 2022 (1) RCR (Criminal) 610* has held that mere harassment without any positive action on the part of accused proximate to time of occurrence would not amount to offence under Section 306 of IPC. Furthermore, the petitioner is presently lodged in judicial custody and it will take considerable time for the trial to conclude. It being so, no purpose is going to be served by prolonging the judicial custody of the petitioner for any longer period.

7. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing of personal/surety bonds to the satisfaction of the learned trial Court/CJM, concerned.

11.01.2024

Yogesh

Whether speaking/reasoned:-
Whether reportable:-

(KARAMJIT SINGH)
JUDGE

Yes/No
Yes/No