



CRM-M-31120 of 2024 1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-M-31120 of 2024
DATE OF DECISION :- 16.07.2024

Kamlesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rakesh Kumar Lathwal, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

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. 318 dated 23.09.2023, for the offences punishable under Sections 304-B, 34 of IPC (charge framed in Section 304-B, 34 of IPC in alternate Section 302 of IPC registered at Police Station Sonipat Bahalgarh, District Sonipat.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

"To, SHO Sir, Police Station Bahalgarh, District Sonipat, Sir, requested that I am Rajesh son of Dhara and I am permanent resident of village Sisana, District Sonipat. I am by profession driving my own vehicle. We are two brothers and two sisters. My father is alive whereas my mother has already expired. I am married and my wife name is Suman. I have two sons and one daughter whose name is Monika. The marriage of my daughter Monika was solemnized with Mohit son of Ran Singh, village New Basodi on dated 04.11.2022 as per Hindu right and customs. I gave dowry in the marriage more than my capacity. That all things were smooth after 2/3 months of marriage and thereafter my daughter told us that her husband Mohit, Mother- In-law



Kamlesh and Brother-in-law Ronak started harassing her on account of dowry. We went in the house of Monika and tried to made them understand but the matrimonial family of Monika did not mend his way despite our visiting and continue harassing Monika on account of dowry. That 15/20 days ago, Monika came in our house from her matrimonial house in village Sisana and she again disclosed the harassment and dowry demanding by her matrimonial family members and also disclosed that they may killed if dowry of demand is not fulfill. That after 2/4 day her husband Mohit and her mother-in-law Kamlesh came to my house and we made them understand and they apologized for their behavior and assured us not to repeat those things again and we sent Monika along with them at her matrimonial house. That on dated 22.09.2023, Monika talked to us and told that quarrel took place in house on account of dowry. Today we got the information that Monika committed suicide by hanging herself. That we strongly believe that the husband of Monika Mohit, Brother-In-law Ronak and Mother-in-law and then hanged her and they also did not given any information to us and we received information through Police. I submit my written complained to you. It is requested to kindly take the strict legal action against these persons and they untangled the body in our absence. I will be thankful to you. Sd/- Rajesh son of Dhera, village Sisana, Sonipat, Phone No. 9467521318, 8708498361 xxxxxx”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 17.10.2023. Learned counsel has further argued that the offence under Section 304-B of IPC is not made out against the petitioner as no specific demand of dowry/instance of harassment on account of dowry has been brought forward in the challan (report under Section 173 Cr.P.C.) by the police. Learned counsel for the petitioner has further argued that the deceased has in fact committed suicide on account of dispute arising out of routine wrangling in a matrimonial home. In this view of the matter, learned counsel has prayed for grant of regular bail.

**CRM-M-31120 of 2024 3**

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 15.07.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 17.10.2023 whereinafter investigation was carried out and challan stands presented on 19.12.2023. Total 15 prosecution witnesses have been cited and culmination of the trial will take its own time. It is not in dispute that after recording of testimony of the complainant-Rajesh, an application under Section 319 of Cr.P.C has been filed by the prosecution for summoning of one Ronak as an additional accused. The rival contention of learned counsel for the parties; as to whether the offence of Section 304-B of IPC is made out against the petitioner in the facts and circumstances of the given case as also the arguments that the deceased had committed suicide on account of the disturbances arising out of routine matrimonial wrangling; 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. The instant bail petition preferred by the petitioner, who is a widow, aged 47 years, can be construed with some latitude in terms of the proviso to Section 437(1) of Cr.P.C. It would be apposite to refer herein to a judgment passed by this Court titled ***‘Ravinder Kaur versus State of Punjab’*** in CRM-M-11503 of 2024 decided on 14.03.2024, relevant whereof reads as under :-

“The petitioner is a lady aged 53 years and hence her bail petition is required to be considered, with some latitude, in terms of



Section 437 of Cr.P.C. It would be apposite to refer herein to 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, which held 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.

XXXX XXXX XXX

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.”

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. It is further not in dispute that the petitioner was earlier extended the concession of interim regular bail for a period of one month by the Sessions Court which was not misused by the petitioner and the petitioner had also surrendered back in time. As per custody certificate dated 15.07.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 08 months & 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 case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the Ld. 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 herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.



- (v) The petitioner shall deposit her passport, if any, with the trial Court.
 - (vi) The petitioner shall give her cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change her cell-phone number without prior permission of the trial Court/Illaqa 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

16.07.2024
P.Singh

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