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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-31218-2024 (O&M)
Date of decision: 25.09.2024

Kuldeep Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Piyush Sharma, Advocate
for the petitioner.

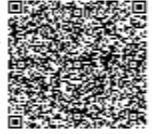
Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking regular bail in case bearing FIR No.116 dated 03.09.2023 under Sections 304-B, 34 of the Indian Penal Code, 1860 (for short 'IPC') and Section 498-A of IPC (added later on), registered at Police Station Sadar Jalalabad, District Fazilka.

2. The present FIR was registered on the basis of statement of

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father of the deceased, on the allegations that marriage of his daughter was solemnized with the petitioner in the month of April, 2021 and in the marriage, he had given sufficient dowry to his daughter. Out of this wedlock, a baby girl was born. From the very beginning, husband (petitioner), mother-in-law, brother-in-law and elder sister-in-law of the deceased were harassing her for bringing less dowry and they also gave beatings to her, due to which, she was admitted in Civil Hospital, Jalalabad. Thereafter, with the intervention of panchayat and relatives, a compromise was effected between the parties. But husband (petitioner), brother-in-law, sister-in-law and mother-in-law of his daughter-deceased again started harassing her and even after birth of his granddaughter, the complainant had given one AC and one old motorcycle. On 03.09.2023 at about 12.11 a.m., the complainant received a phone call from the mobile number of some unknown person and he informed that his daughter had ended her life by hanging herself with girder in her house, upon this, he along with his other son-in-law, other relatives and family members reached at the matrimonial home of his daughter and they saw that there was sign of chunni tied on the neck of his daughter with the girder and the chair was lying fallen on the bed. Thereafter, her body was removed from there and kept the same on the cot in the courtyard. As such, a prayer was made to take legal action against husband (petitioner), elder brother-in-law, elder sister-in-law and mother-in-law of the deceased.

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3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case. His wife committed suicide on 03.09.2023 and she left the suicide note, which is available on record as Annexure P-2, in which the petitioner was not named and no allegation with regard to harassment by the petitioner is there in the suicide note. Further, perusal of FIR (*supra*) reflects that no specific date, time or manner has been disclosed. The factual ingredients breaching the threshold of Section 304-B of IPC are clearly missing. There is nothing on record to remotely suggest that the deceased was subjected to any cruelty on account of demand of dowry immediately before her death. The petitioner is behind bars since 07.09.2023; he is not involved in any other case; the investigating agency has already concluded the investigation and presented the final report under Section 173 Cr.P.C.

4. Mr. Kamal Narula, Advocate appears on behalf of the complainant and files his *Vakalatnama* in the Court today, which is taken on record. Registry is directed to tag the same at the appropriate place of the case file. He opposes the prayer made by the petitioner and submits that during investigation of FIR (*supra*), father of the petitioner admitted that on the day of occurrence, the petitioner quarreled with the deceased and due to harassment and conduct of the petitioner, the deceased committed the suicide. Earlier also, there was a dispute, when the deceased left her

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matrimonial home and panchayat was convened to resolve the matter.

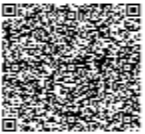
5. Learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that death of the deceased took place in the matrimonial home within 07 years of marriage, as it is incumbent upon the petitioner to explain the circumstances, in which his wife died unnatural death. As such, he is not entitled to any relief. Learned State counsel produces the custody certificate dated 24.09.2024 of the petitioner in the Court today, which is taken on record. However, he could not controvert the fact that the petitioner is not involved in any other case.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is in custody for the last 01 year and 15 days as on 24.09.2024 and the trial of the case has not even reached halfway mark as only 02 out of 21 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. 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.

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

“6. Jails in India are flooded with undertrial prisoners. The

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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.”

8. In view the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Kuldeep Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

9. 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

25.09.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No