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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32437-2024 (O&M)

Date of Decision: 16.07.2024

PAWAN ALIAS PINKU

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Aakash Dalal, 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.283 dated 06.08.2023, registered for the offence punishable under Section 306 of IPC at Police Station Sadar Jhajjar, District Jhajjar.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To SHO Sahib Police Station Sadar Jhajjar Sir, the request is that I am Abhilash son of Rajendra Singh, resident of Bhaini Chandarpal, Rohtak. Today at around 5:30 in the morning, I got the information that my sister Sonia has passed away. My sister Sonia was married about 14-15 years ago according to Hindu customs with Pawan, son of Captain, resident of Kasni Jhajjar. My sister has two children, the elder boy's name is Mohit and the younger girl's name is Mitansha. On receiving the information, I reached Kasni village with my family members and on reaching here I came to know that my sister had hanged herself on 5.8.2023 at around 10:30 PM. My brother-in-law Pawan used to drink alcohol and fight with my sister Sonia every day and beat her. Yesterday also on 5.8.2023, my brother-in-law had beaten my sister, fed up with the daily tortures and fights, my sister ended her life. I took strict action against my brother-in-law Pawan, son of Captain Vasi Kasni.



Strict legal action should be taken. Sa Abhilash son Rajendra Mohd. 9817195887.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 15.09.2023. Learned counsel for the petitioner has further argued that the offence under Section 306 of IPC is not made out against the present petitioner in the factual matrix of the case. Learned counsel for the petitioner has further argued that the prime private prosecution witness, namely, Abhilash (complainant) has turned hostile when examined as PW-1, and hence the trial is not likely to culminate into conviction. Thus, regular bail is prayed for.

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.

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

6. The petitioner was arrested on 15.09.2023 whereinafter investigation was carried out & challan was presented on 10.11.2023. Total 13 prosecution witnesses have been cited out of which the prime private prosecution witness, namely, Abhilash has been examined as PW-1. The rival contention of the learned counsel for the parties; as to whether the offence of Section 306 of IPC is made out against the present petitioner in the factual matrix of the case as also the weightage required to be attached to the testimony of the hostile witness; 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. Nothing tangible has been brought forward to indicate the likelihood of the petitioner



prosecution evidence. As per the custody certificate dated 15.07.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 10 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 present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his 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 himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.



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(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.

16.07.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No