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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33003-2024 (O&M)
Date of decision: 18.07.2024

Manjit Kaur

... Petitioner

Vs.

State of Punjab

... Respondent

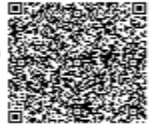
CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Dhrupwinder Brar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

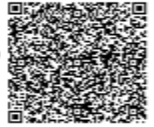
HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case bearing FIR No.17 dated 15.02.2024 under Sections 304-B, 34 of the Indian Penal Code, 1860, registered at Police Station Cantonment, District Amritsar.
2. The present FIR was registered on the basis of statement made by the complainant-father of the deceased, with the allegations that he has four daughters and two sons. His daughter 'K' (name withheld) was married



to Rana Pratap Singh three years ago and they were blessed with a son. Husband of the deceased and his mother were harassing the deceased for bringing less dowry. On the date of registration of FIR i.e. 15.02.2024, husband of the deceased informed the complainant that when he and his mother were out of the house, his elder brother Yuvraj Singh suddenly came to the house and on knocking the door again and again by him, the deceased did not open the door and the sound of crying of child was coming from the house. On which, the complainant along with his wife visited the matrimonial home of their daughter and after braking the door, they saw that the deceased was hanging with fan in the room.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner, who is a widow, is mother-in-law of the deceased and no specific allegation of harassment are levelled against her and the allegations against her are generic in nature. Even at the time of incident, she was not present in the house. In the fact, the deceased committed suicide and she left her four months old son crying in the next room. The deceased was taking treatment for depression. Reliance in this regard has been placed upon the medical summary (Annexure P-2) prepared by Dr. R.M. Sharma, who diagnosed the deceased, as suffering from depression. The deceased herself has mentioned her condition as poor sleep, tension, headache bursting type, gabharat, sad mood, eating less, not interested in working and having suicidal ideas. He



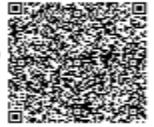
further contends that the investigating agency has already concluded the investigation and submitted the final report under Section 173 Cr.P.C. before the concerned jurisdictional Court.

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that the deceased died unnatural death in her matrimonial home and there are serious allegations against the petitioner and her son, who is yet to be arrested.

5. 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 a widow; she is behind the bars since 17.02.2024 and is not involved in any other case; investigating agency has already concluded the investigation and presented the final report under Section 173 Cr.P.C.; trial of the case has not commenced, as none of the prosecution witness, out of total 17 PWs, has been examined till date. 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.

6. 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 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.”

7. Further, the Hon'ble Supreme Court in **Satender Kumar Antil** 's case (*supra*), while taking cognizance of plight of the women, held that the Court is expected to show some sensitivity and observed 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

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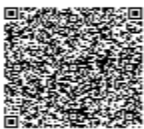
along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

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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.” (emphasis supplied)



8. In view of 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 Manjit Kaur is ordered to be released on regular bail during trial on her furnishing bail/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

18.07.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No