



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

298 **CRM-M-33182 of 2024 (O&M)**
DATE OF DECISION :- 19.09.2024

Umesh **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Vipin Mahajan, Advocate for the petitioner.
Ms. Ankita Ahuja, AAG, Haryana.
Mr. D.S. Matya, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 11.07.2024 under Section 439 of Cr.P.C, 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Versus State of U.T. Chandigarh and another*' (CRM-M-31808 of 2024) 2024PHHC085784, the instant petition is not maintainable under Section 439 of Cr.P.C, 1973. However, keeping in view the entirety of facts and circumstances of the case especially that the instant petition pertains to regular bail, the instant petition is directed to be considered as a petition under Section 483 of BNSS, 2023.

1. Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.28 dated 01.02.2023, registered for the offences punishable under Sections 302,304-B,34 of IPC at Police Station Chhainsa, District Faridabad, Haryana.



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

“To the Station Incharge, P.S. Chanyasa, Subject: Application for taking legal action against 1.Umesh son of Moharpal, 2. Moharpal son of Khajan, 3.Satto wife of Moharpal, 4.Renu daughter of Moharpal resident of village Mohna, Tehsil Ballabhgarh District Faridabad. 1. Request is that I, Ramesh son of Pyarelal resident of village Gehlab, Tehsil Hathin, District Palwal, 2.That I had married my daughter with accused no.1 on dated 28.02.2018. In which I gave lot of dowry as per my status. 3. That after her marriage my daughter had two daughters and the accused were troubling her because of less dowry after her marriage. 4. That accused No. 3 Satto and accused number 4 Reenu used to taunt my daughter every day from the very beginning saying that she had linked herself with a poor family who neither gave us a car nor gave us dowry to be seen in the society. Every day, accused number 3 and 4 used to fight with my daughter, whatever silver & gold which I had given to my daughter in the dowry also snatched. 5. That even after the marriage, accused No.1 was habitual of drinking alcohol and every day after consuming liquor used to beat me and taunt me about not having a boy and used to demand car and money as dowry. 6. That accused No.2 is my daughter Sonu's father-in-law Moharpal demanded Rs.25 lakh for opening the hotel of his son accused number 1 Umesh, which accused No.1 is running a small Dhaba.7. That in the intervening period the accused had beaten my daughter and shunted her out from the house, in this regard after convening many panchayats the accused had took my daughter. 8. That today my daughter Sonu called me at around 4 o'clock and at that time also she talked with me properly and at around 6:20 PM accused number 2 called me that an accident happened here and you people should come, we immediately put phone call to 112 number and when we reached at the spot then the police



had also reached there. We saw in front of the police that the door of the room was open and the accused had killed my daughter and hanged her from the skylight (Roshandaan) and her feet were resting on the table. We were convinced that the accused had murdered my daughter by hanging her from the skylight, therefore, we request you to file a case of dowry and murder against the accused and provide justice to us and our daughter. Applicant RAMESH CHAND V.P.O-GEHLAB, THE- HATHIN, DISTT-PALWAL, MOB NO-9466458990. At Police Station: At about 7:00 PM, information was received from village Mohana through telephone at Police Station that in the village Mohana, Sonia wife of Umesh, resident of Mohana, has committed suicide by hanging herself around her neck. Send I/O for action. On receiving the information, myself SI alongwith HC Sanjay No.622/Fri, Constable Haroon No.2586/Fri, Constable Deepak No.798/Fri reached at the spot. Where a woman was found hanging dead in the upper room of the house by tying with a chunni in the skylight (Roshandaan) and tying a noose of chunni around her neck. Regarding which deceased Sonia's father was informed and after waiting for arrival of heirs of deceased, deceased's father Ramesh son of Pyarelal resident of village Gehlab, Police Station Bahin, District Palwalmet present and presented a written application before me SI. From the contents of the application offence under Section 302, 304-B, 34 IPC have found to be made out. The original writing is sent to the police through C. Haroon No. 2586/FBD for registration of case. After registration of the case FIR number be informed. After preparing the special report of the case sent to Illaqua Magistrate and Senior Officers through special messenger. Officers of Scene of Crime Team be informed about the occurrence. I SI busy in investigation u/s. 174 Cr.P.C.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 01.02.2023. Learned counsel has further submitted that



the offence of Section 304-B of IPC is not made from the factual matrix of the case. Learned counsel for the petitioner has further submitted that no specific complaint was ever made by the family of the victim regarding dowry harassment whatsoever at any point of time earlier. Learned counsel for the petitioner has further submitted that prime prosecution witnesses namely father of the victim and brother of the victim have turned hostile and hence the trial is not likely to culminate into conviction. In this view of the matter, learned counsel has prayed for grant of regular bail.

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 18.09.2024 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 01.02.2023 whereinafter investigation was carried out and challan stands presented on 23.04.2023. Total 18 prosecution witnesses have been cited and only 03 have been examined till date. It is thus indubitable that conclusion of the trial will take long time. The rival contention of learned counsel for the parties; as to whether offence under Section 304-B of IPC is made out from the factual matrix & the weightage required to be attached to the testimonies of the hostile witnesses namely father of the victim and brother of the victim; 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 absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 18.09.2024 filed by the learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year and 07 months and 18 days & 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 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 cell-phone 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.
- (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

19.09.2024
P.Singh

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