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

CRM-M-34377-2024

Date of decision: 25.07.2024

Bishan

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Pathania, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.16 dated 18.02.2024 under Sections 306/34 of IPC registered at Police Station Sadar Sohna, District Gurugram, Haryana.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that he solemnized the marriage of his daughter with the accused/petitioner on 24.02.2016 and provided dowry according to his status. It is further alleged that after the marriage, in-laws of his daughter did not treat her well, harassed her and pressurized her to bring more dowry, which is also reported in a written complaint to PS Sohna, by his daughter, namely, Usha. Thereafter, her in-laws and her husband admitted their mistake and assured that they would treat her well. It is further alleged that on 16.02.2024 at around 09:30 P.M., the complainant received a phone call informing him that his daughter had been murdered and upon reaching her matrimonial home, he found her dead and thus, the instant FIR got registered.



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Learned counsel for the petitioner *inter alia* contends that the allegations contained in the FIR (*supra*) are highly improbable and no specific instance is mentioned to make out a case of abetment within the meaning of Section 107 IPC and as such, the petitioner cannot be held liable for an offence punishable under Section 306 of IPC. He further submits that initially six persons were named as accused and during the investigation, four family members of the petitioner were exonerated and final report has been filed against the petitioner and his mother and his mother was granted anticipatory bail by this Court vide order dated 21.06.2024 passed in CRM-M-28158-2024.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner is the main accused and husband of the deceased and there are specific allegations against him. She further submits that there is sufficient evidence on record to prove his complicity in the alleged offence, however, she could not controvert the fact that he is not involved in any other case.

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

"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."

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Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 04.03.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 17 prosecution witnesses none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. 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.

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

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

25.07.2024*Neha*

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No