

CRM-M-37208-2023 -1-

277 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-37208-2023
Date of decision: 12th February, 2024

Rajiv Kumar ...Petitioner(s)
Versus
State of Haryana ...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Dhruv Gupta, Advocate for the petitioner.
Mr. Neeraj Poswal, A.A.G., Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
187	07.05.2019	Baldev Nagar, District Ambala	307/34/498-A of Indian Penal Code, 1860 (for short ‘IPC’) (Section 307 deleted and 302 added later on)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was initially registered under Sections 307 and 498-A read with Section 34 of IPC on the basis of statement recorded by complainant Deepak Kumar on 07.05.2019, alleging therein that his sister Shivali was married with the present petitioner about ten years back. The behavior of the petitioner was not good with her and he used to physically assault her many times. She was even thrown out of the

house. This misbehavior was also on account of demand of more dowry. He alleged that on 06.05.2019 at around 9:00 AM, on receipt of an information about his sister being admitted in Government Hospital, Ambala in a critical condition, he rushed there and found her to be admitted there while her whole body being burnt. On asking, she disclosed that the present petitioner alongwith his mother-Nirmala, elder brother-Chandi Ram and sister-in-law Seema doused kerosene upon her and set her ablaze with an intent to burn her. He prayed for taking action against the culprits. The victim died during the course of treatment and therefore, offence under Section 307 of IPC was deleted whereas the offence under Section 302 of IPC was added. Post-mortem examination of dead body of the victim and inquest proceedings were conducted. The petitioner was arrested on 09.05.2019 and presently, he is facing trial for commission of offence punishable under Sections 302 and 498-A of IPC.

3. Present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He is in custody since 09.05.2019 i.e. more than for a period of four years and two months. Infact, the victim was suffering from depression since long and was under constant medication for that purpose. On the day of incident also, she was working in kitchen and when accidentally, she had suddenly caught fire. He himself had tried to save the victim and had also sustained burn injuries. During the course of investigation his other family members had been found to be innocent but on allowing of application of 319 of Cr.P.C., they were summoned as additional accused in an illegal and

arbitrary manner. The trial was likely to take time. No useful purpose was going to be served by keeping him in custody anymore. Therefore, it is argued that the petition deserves to be allowed.

4. The learned State counsel has resisted the prayer in terms of the status report. It is argued by him that there are serious allegations against the petitioner. Not only the victim had disclosed about the manner in which the incident had taken place to her brother i.e. complainant but her statement under Section 164 of Cr.P.C. was also recorded by Judicial Magistrate, Chandigarh on 08.05.2019 (Annexure P-3) in which she had clearly stated that on the fateful day, her husband i.e. the present petitioner and her brother-in-law had consumed liquor. Her mother-in-law had started quarreling with her on account of giving birth to daughters. Her husband had got agitated and had doused her with kerosene from the stove lying in the house and then set her ablaze. She also stated that it was only her *Jethani* who had tried to save her. It is argued that the statement so recorded before the Magistrate is to be considered as dying declaration of the victim. There are serious and specific allegations against the petitioner. There is nothing on record to show that there would be any undue delay in conclusion of the trial. Hence, it is argued that petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. The petitioner is alleged to have set his own wife ablaze as on 07.05.2019 by pouring kerosene upon her and then by burning her with the

help of matchstick. She survived for two days after the incident. In her statement as recorded before a Magistrate which is to be considered as her dying declaration, she is shown to have categorically stated that it was the present petitioner who had set her ablaze. The allegations against the petitioner are quite grave in nature. There is nothing on record to show that there would be any undue delay in conclusion of the trial. Keeping in view the gravity of offence alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence the same is dismissed.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

12th February, 2024
Parveen Sharma

1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No