



CRM-M-36331 of 2024 1

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

221 **CRM-M-36331 of 2024**
DATE OF DECISION :- 05.08.2024

Bimla Devi **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Raman Chawla, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 26.07.2024 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.298 dated 18.08.2022, registered for the offences punishable under Sections 304-B/34 of IPC (later on added offence 498-A IPC at Police Station Sadar Safidon, District Jind.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-



“Statement of Karmabir S/o Balbir Caste Prajapat Resident of Kohad Distt Karnal Age 40 Years Moo.N. 96714-49974 Stated that I am a resident of the above address, I work as a mason, I have 2 boys and 2 girls who are my daughter Neha, age 22, who was married at village Didwada, to Amit S/o Sundar r/o Didwada. It had been about 16 months of marriage that whenever my girl used to come to us after marriage, she often used to tell that my husband, mother-in-law and father-in-law used to taunt me saying that you belong to a poor family and they used torture for dowry. My daughter came to us on the festival of Raksha Bandhan on 03.08.2022, who went back to her in-laws house on 12.08.2022 with her husband Even while leaving, my daughter Neha, was saying that her in-laws harass and beat her for dowry, which I am not happy in my in-laws house. My daughter was also pregnant for about 6 months. Today on 18.08.2022, I got a call from father of my son-in-law, Sundar, that Neha had hanged herself. I and my family members reached the village Didwada on the information that she had ended her life, then my girl's body was lying on the floor, which shows that my girl Neha has ended her life by hanging herself. My daughter Neha has ended her life after being fed up with dowry and beatings from her mother-in-law Bimla wife of Sundar, father-in-law Sundar son of Dharma and her husband Amit son of Sundar residents of Didwada. Legal action should be taken against them, I have written my statement to you, heard it, read it, understood its correct. SD / Karmbir Attested Roshan Lal ESI Police Station Sadar Safidon Dt. 18.08.2022 Action Police:.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 01.04.2024. Learned counsel has further argued that total 31 prosecution witnesses have been cited and culmination of the trial will take its own time. Learned counsel for the petitioner has further argued that the marriage was solemnized between the son of the petitioner and deceased on 04.04.2021 and she passed away on 18.08.2022 but no complaint was ever

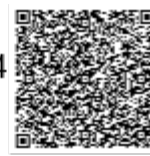
**CRM-M-36331 of 2024** 3

made by the family of the deceased on account of any dowry harassment. 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 02.08.2024 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 01.04.2024 whereinafter investigation was carried out and challan stands presented on 18.04.2024. Total 31 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time. The rival contention of learned counsel for the parties; as to whether there were cordial relations between the deceased and the petitioner & as to whether any complaint was made by the family of the deceased on account of any dowry harassment as also relevance of this aspect; 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. The petitioner is a lady aged 41 years and thus her bail application is liable to be considered accordingly. It would be apposite to refer herein to the dicta of a judgment passed by this Court in the case of ***Ravinder Kaur vs. State of Punjab (CRM-M-11503-2024)***, while relying upon the dicta of a judgment of the Hon'ble Supreme Court in a case of ***Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51***, has granted the concession of regular bail to the petitioner therein, relevant thereof reads 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 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.

XXXX XXXX XXXX

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.”

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 02.08.2024 filed by learned State counsel, the petitioner has already suffered incarceration for more than 04 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 case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on her 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 herself on any date before the trial.



CRM-M-36331 of 2024 **6**

- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change her 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

05.08.2024
P.Singh

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