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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 19.01.2024

Bhinderpal Singh

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Kulwinder Singh, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.104 dated 16.10.2022, registered for the offences punishable under Sections 306 & 34 IPC at Police Station Chhajli, District Sangrur.

2. The case set up in the FIR in question is as follows:-

"Copy of statement. "Statement of Dheeraj Sharma son of Late Sh. Krishan Chand resident of Rajinder Puri (Ranchna), PS Dhuri, District Sangrur, Current r/o Flat No. 34-C, Shivalik City, Sector-127, Kharar, PS Kharar, District Mohali, Age about 26 Years, Mob. No. 95018-76548. I hereby state that I am resident of above-mentioned address and I do job at Chandigarh University Gharuan. My parents have died. I have five sisters and all are married. In year 2019 I had given my house at village on rent and started residing at Mohali. I am married. Marriage of my youngest sister Veerpal Kaur @Reet was solemnized in year 2012 with Bhinderpal Singh son of Bhinderpal Singh resident of Chhajli and she has one son namely Nikhil Bhardwaj age about 6 years. My brother-in-law (jija) Bhinderpal Singh and his father Bhinderpal Singh are habitual of consuming liquor and both of them are harassing my sister Veerpal Kaur since year 2012. About 1 month ago my brother-in-law (jija) Bhinderpal

Singh had tendered his duly sworn affidavit at Court Complex Sunam in presence of his father Bhinderpal Singh that today onwards we shall not harass Veerpal Kaur, if we harass Veerpal Kaur or if she die due to our harassment then legal action be taken against us. But even after giving affidavit my brother-in-law (jija) Bhinderpal Singh and his father Bhinderpal Singh continued harassing my sister Veerpal Kaur after consuming liquor. On dt. 15.10.2022 at time about 11:15 AM my brother-in-law (jija) Kamaljit resident of Dhuri made phone call to me and said that I have received phone call of Bhinderpal Singh father-in-law of your sister Veerpal Kaur and he has said that Veerpal Kaur has ended her life by hanging herself from the ceiling fan by tying chunni (dupatta) around her neck in one room of our residential house. I immediately took leave from work and along with my family went to my sister Veerpal Kaur's house at Village Chhajli and saw that dead-body of my sister Veerpal Kaur was lying on the bed. My sister Veerpal Kaur has committed suicide due to harassment of her husband Bhinderpal Singh and father-in-law Bhinderpal Singh. Therefore, legal action be taken against both above mentioned persons and justice be given to me. Today I alongwith my brother-in-law (jija) Kamaljit Singh son of Gurnam Singh resident of Dhuri met you at Bus Stand Chhajli and I have recorded my statement to you, which is read over, heard, is correct. Action be taken. Complainant:- Sd/- Dheeraj Sharma son of Late Sh. Krishan Chand. Statement correct, Sd/- Kamaljit Singh son of Gurnam Singh resident of Ward No. 01, Dhuri, Sangrur, Mob. No. 99147-39698.

3. Learned counsel for the petitioner has argued that after petitioner was arrested on 16.10.2022, investigation was carried out and challan was presented. It is argued that out of total 17 prosecution witnesses only 01 prosecution witness has been examined. It is further submitted by learned counsel for the petitioner that marriage between petitioner-Bhinderpal Singh and deceased-Veerpal Kaur took place about 12 years ago and they are blessed with a boy who is currently aged about 06 years who is residing with the family of the petitioner. Referring to affidavit dated 16.09.2022 (copy whereof has been appended as Annexure P-2 with the

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present petition), learned counsel has argued that the execution of this affidavit (even if it is assumed to be true) shall not fasten liability upon the petitioner in terms of Section 306 of IPC. Accordingly, learned counsel has prayed for grant of regular bail to the petitioner.

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 18.01.2024 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 16.10.2022; challan was presented on 09.12.2022 and trial is underway. The rival contention of the parties as to whether offence under Section 306 IPC is made out or not will be essentially seen during the course of trial. This Court does not deem it appropriate to delve deep into the rival contentions at this stage, lest it may prejudice the case of either parties. As per custody certificate dated 18.01.2024 filed by the State of Punjab, the petitioner has already suffered incarceration for a period of more than 01 year and 03 months & same does not reflect involvement of the petitioner in any other case. No tangible material has been brought forward to indicate the likelihood of the petitioner fleeing from the process of law or interfering with the remaining prosecution evidence. In considered opinion of this Court, in the facts and circumstances of the case, further detention of the petitioner as an undertrial is not warranted.

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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 cellphone 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/Illaq 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.

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11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

January 19, 2024
Ajay

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