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IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CRM-M-42227-2023

Date of decision: 12th March, 2024

Harwinder Singh

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Saurav Bhatia, Advocate for the petitioner.
Mr. Satjot Singh, AAG, Punjab.

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.	Date	Police Station	Section(s)
21	25.02.2023	Lalru, District SAS Nagar (Mohali), Punjab	304-B of Indian Penal Code, 1860 (for short 'IPC')

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the abovesaid FIR was registered on the basis of a statement recorded by the complainant Avtar Singh alleging therein that the marriage of his daughter Gurmeet Kaur was solemnized with the petitioner on 16.06.2018 and sufficient dowry was given at the time of marriage. A female child was born out of the wedlock. Some time after the marriage, the petitioner had started harassing his daughter on trivial issues. He also used to give abuses to her daughter on account of bringing less dowry and raised demand of motorcycle. She was physically assaulted by the petitioner.

Several times panchayat meetings had been convened but the petitioner did not mend his ways and therefore, the complainant had brought her daughter alongwith him and she stayed with his family for about six months. Thereafter, on intervention of Panchayat of the village of the petitioner, he had sent his daughter back to her matrimonial house. However, the petitioner again started harassing the victim on account of bringing less dowry and alleged that on 23.02.2023, being fed up with the behaviour of the petitioner, his daughter had consumed celphas tablets. She was taken to civil hospital, Ambala by the co-villagers and was referred to PGIMER, Chandigarh but had died on 25.02.2023 during the course of treatment. After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 25.02.2023. Inquest proceedings and post-mortem examination of the dead body was conducted. As per the chemical examination report and the viscera contents taken from the dead body, aluminum phosphide was found in the same. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offence. He had moved an application for grant of bail before the learned trial Court but the same had been dismissed vide order dated 25.07.2023.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner is in custody for a period of over one year. The trial is likely to take time. His custodial interrogation is no more required. False and frivolous allegations have been levelled against the petitioner as there was no previous complaint

regarding alleged torture of the victim at his hands. He has a permanent abode. There is no likelihood of his absconding or tampering with the evidence. It is, therefore, urged that the petition deserves to be allowed. In support of his argument, learned counsel has placed reliance upon the authorities cited as '*Asha and another vs. State of Uttarakhand, (2014) 4 Supreme Court cases 174*', '*Manoj Vs. State of Haryana, 2023(2) RCR (Criminal) 428*', '*T.Aruntperunjothi vs. State through SHO, Pondicherry, (2006) 9 Superme court cases 467*' and '*Susheel Kumar Arya vs. State Govt. of NCT of Delhi, 2023(298) DLT 268*'.

4. *Per contra*, learned State counsel has argued that the allegations against the petitioner are serious in nature. Substantial number of prosecution witnesses have been examined by the prosecution. There are no chances of any delay in the conclusion of the trial. The allegations on the face of record make out a case of commission of subject offence by the petitioner. Accordingly, , it is stressed that the 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. As per Section 304-B of IPC, where the death of a woman is caused by any burns or bodily injury or occurs otherwise, than under normal circumstances within seven years of her marriage and it is shown that soon before her death, she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in-connection with any demand of

dowry, such death shall be called 'dowry death' and such husband or relative shall be deemed to have caused her death. In the instant case, though at the time of lodging of FIR, the complainant had recorded that the marriage of the victim with the petitioner had been performed on 16.06.2018. However, he is also shown to have recorded a supplementary statement that infact their marriage was performed on 16.06.2019. The victim had died on 25.02.2023 i.e. within a period of seven years of her marriage. Admittedly, she has died a suicidal death. Specific allegations qua harassment of the victim at the hands of the petitioner on account of bringing insufficient dowry and further on account of demand of dowry have been made. The basic ingredient to attract the provision of Section 304-B of IPC is that the death of the women should have occurred under circumstances which are not known. The law presumes that the death which is not normal, if had happened within seven years of date of marriage and the victim was subjected to cruelty in connection with demand of dowry made before her death, would be termed as dowry death. The punishment in law of a 'dowry death' is meant to act as a deterrent to the demand of dowry and to ensure that there is no victimization because of that. The allegations against the accused will obviously be decided in trial. At the stage of considering plea for grant of bail, it is neither appropriate nor feasible for this Court to draw any conclusion. Such a finding or decision must await a thorough assessment and evaluation of assessment to be led by the parties at the trial that is yet to be led. The authorities cited as Asha and another's case (supra) and T. Aruntperunjothi's case (supra) are cases wherein the conviction under

Section 304-B of IPC had been challenged and are not cases wherein order passed in bail applications had been challenged. In Manoj’s case (supra) bail was granted to a husband facing trial under Section 304-B of IPC on the ground that the victim wife was suffering from mental stress and there was no allegation of harassment or commission of act cruelty upon victim on account of demand of dowry. Therefore, these citations cannot be stated to be applicable to the peculiar facts and circumstances of the present case. In Amit’s case (supra) a Bench of High Court of Delhi had granted bail to husband under Sections 498-A and 304-B of IPC by observing that the trial was likely to take time. However, in view of the settled proposition of law that the bail orders are not necessarily of precedent value, this citation can not be stated to be binding on this Court. Keeping in view the nature of the allegations which have been levelled against the petitioner, the quantum of sentence which the conviction may entail, in case he is held guilty and the surrounding facts and circumstances of the case, I am of the considered opinion that the petition does not deserve to be allowed. Accordingly, 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 March, 2024

Parveen Sharma

1. Whether speaking/ reasoned
2. Whether reportable

:
:

Yes / No
Yes / No