



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

CRM-M-42634-2023 (O&M)

Date of Decision: 23.05.2024

Jagdish Chand

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Kunal Dawar, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Abhishek Goyal, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 465 dated 10.11.2022 registered under Sections 304-B, 354-A and 506 read with Section 34 IPC at Police Station Gadpuri, District Palwal, Haryana.

The aforesaid FIR was registered on the basis of complaint moved by the father of the deceased and the brief facts as mentioned in para No. 2 of the impugned order dated 09.08.2023 (Annexure P-7), are reproduced as under:-

“2. The prosecution version, in brief, is that on 10.11.2022 PSI Vikas was present at police post when information was received from control room Palwal to the effect that Arti daughter of Satpal has died after consuming



poison. On this information PSI Vikas along with fellow police officials reached PP Sector 15 Faridabad and after obtaining the medical slip reached SSB hospital, Faridabad. On inquiry he came to know that the cause of death was poison. The complainant Satpal, father of the deceased also met him who moved written complaint. The complainant alleged that he is an employee of Municipal Corporation, Delhi. That the marriage of his daughter was solemnized with Sandeep on 26.04.2021 and rupees 30 lacs were spent at the time of marriage. That at the time of fixing marriage no demand of dowry was raised but on 22.04.2021 i.e. 4 days prior to the marriage Sandeep, father of Sandeep, mother of Sandeep, Sonu and Sudhir, brothers of Sandeep told him that Sandeep is employee in Army and they will not finalize the relation without a car. That the complainant arranged Rs. 6.5 lacs from his relatives and gave to Sandeep, his parents and brothers. That on 26.04.2021 marriage was solemnized but immediately thereafter the accused persons started harassing his daughter on account of bringing less dowry. In September 2021 the complainant again arranged Rs. 5.5 lacs and gave to the accused persons. That the accused persons purchased an Ertiga car for Rs. 12 lacs but they were even then not satisfied with the dowry articles. That the accused persons later started harassing the deceased for bringing gold kara. That the father-in-law of the deceased started keeping an evil eye upon her. In October 2022 Sandeep came back to his house on leave whereupon the deceased disclosed this fact to her husband, that her father-in-law is keeping an evil eye upon her. That her husband gave beatings to her and also threatened her not to disclose this fact to any other person. That the accused persons on the contrary raised allegation upon the character of the deceased. That on 28.10.2022



Sandeep went back to his duty. That his daughter telephonically called him and asked him to take her along to her parental home as the accused persons were harassing her. That on 06.11.2022 son of the complainant brought back his sister to the parental house and she disclosed that the accused persons demanded 80 gram gold kara from him. That on 09.11.2022 at about 8/8:30 a.m. Sandeep telephonically contacted his wife Arti (deceased) and raised allegations upon her character. That on 10.11.2022 at about 8/8:30 a.m. Jagdish, Sonu and Sudhir came to his house and levelled allegations upon the character of daughter of the complainant. That the deceased disclosed to her father that in the absence of her husband, her father-in-law Jagdish physically exploited her. That on hearing this, the father-in-law got instigated and levelled allegation against the daughter of the complainant and refused to take her along. Thereafter they left the house of the complainant. After some time Sandeep again telephonically contacted the daughter of the complainant and abused her. That the complainant and his family members were having conversation and in the mean time his daughter Arti consumed poisonous tablets. That she told the complainant that since her husband and father-in-law have levelled allegation upon her character and she being harassed for not fulfillment of demand of dowry, she had taken this extreme step.”

Learned counsel for the petitioner, *inter alia*, submits that petitioner is the father-in-law of the deceased. It is submitted that son of the petitioner was married to the deceased on 26.04.2021. Due to matrimonial discord, the deceased had left the matrimonial home on 06.11.2022; and had committed suicide by consuming *Sulphas* tablet on 10.11.2022 at her parental home.



It is submitted that the petitioner is an ex-serviceman and even the husband of the deceased/son of the petitioner herein is also serving in Indian Army. Though, serious allegations have been made against the petitioner in the FIR, as it has been alleged therein that the petitioner used to sexually harass the deceased, however, the complainant has not alleged anything qua the aforesaid allegations in his examination-in-chief as PW-1 recorded on 04.01.2024, before the learned trial Court. In his testimony, the complainant has only alleged qua dowry demand and character of the deceased.

Further, it is submitted that the deceased was doing the Course of M. Pharma from K.R. Mangalam University, Gurugram, for which fees has been paid by the petitioner's family, as is evident from the fee receipts (Annexure P-2). Learned counsel also submits that even the Ertiga Car which is alleged to have been given by the complainant's side to the petitioner's side is being financed by the petitioner, as is evident from bank statements (Annexures P-4 and P-5). It is stated that even at the time of admission of the deceased in the hospital on 10.11.2022 after the incident, the payment was made by the petitioner's side i.e. brother-in-law of the deceased. Accordingly, the allegations regarding the demand of dowry from the complainant are incorrect and false. The petitioner has been in custody since the date of his arrest i.e. 29.12.2022. Out of total 19 prosecution witnesses, only examination-in-chief of the complainant has been recorded so far on 04.01.2024. It is submitted by learned counsel for the petitioner that as is evident from the copy of *zimni* order dated 02.05.2024 (Annexure A-2), passed by the learned trial



Court, the complainant side has failed to appear before it for the conclusion of evidence, in order to delay the trial deliberately. Thus, it is prayed that the petitioner be released on regular bail.

Per Contra, learned counsel for the State assisted by learned counsel for the complainant has vehemently opposed the prayer for grant of regular bail to the petitioner and submits that the deceased had committed suicide within a period of 02 years of the marriage, as such there is presumption in respect of the guilt of the petitioner. It is submitted that there are serious and specific allegations levelled by the complainant against the petitioner.

Learned counsel for the complainant has reiterated the submissions made by learned counsel for the State and additionally submits that the complainant's side had paid Rs.6,00,000/- and Rs.5,00,000/- to the petitioner's side towards the purchase of Ertiga Car. It is also submitted that the deceased in her dying declaration to the complainant has stated that her father-in-law/petitioner herein and her husband had questioned on her character and also harassed her for dowry.

Learned counsel for the complainant also disputes the submission made by learned counsel for the petitioner regarding the payments alleged to have been made by the petitioner's family towards the fee for M.Pharma Course being pursued by the deceased; as also the payment of amount at the time of admission of deceased in the hospital after the occurrence.

Learned counsel for the State has filed custody certificate dated 23.05.2024, which is taken on record, as per which the petitioner



has been in custody as an undertrial for a period of 01 year, 03 months and 26 days. As per custody certificate, there is no other case against the petitioner.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; including the custody period of 01 year, 03 months and 26 days undergone by the petitioner as an undertrial, and perusal of the custody certificate reveals that there is no other case against the petitioner; and also the fact that conclusion of trial will take considerable time, as out of total 19 prosecution witnesses, only the examination-in-chief of the material witness i.e. the complainant has been recorded so far, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Jagdish Chand S/o Malhan, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

Pending application(s), if any, shall also stand disposed of.

23.05.2024
rishu

(NIDHI GUPTA)
JUDGE

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