

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

CRM-M-40492-2024
Date of decision: 04.11.2024

....Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR
No.137 dated 21.05.2023 under Sections 304-B/498-A/34 of IPC registered at
Police Station Industrial Area Bhiwani, District Bhiwani.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that the marriage of the petitioner with the sister (since deceased) of the complainant was solemnized on 22.08.2022 and after the marriage, the petitioner and his family members started taunting the deceased and also demanded dowry including plot and bullet motorcycle and also resorted to physical violence, on account of which, the sister of the complainant has committed suicide and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner was employed at Gurugram and the call details and tower locations of the petitioner clearly indicate that he remained in Gurugram from 15.05.2023 to 20.05.2023 and on the date of occurrence, the employer company

of the petitioner has sent the petitioner for official work in District Kullu of Himachal Pradesh. Further the petitioner is behind the bars for almost one and a half years and material witnesses have already been examined. It is further contended that there is no evidence on record to indicate that the deceased was subjected to any harassment on account of demand of dowry immediately prior to her death, as such, the necessary ingredients to breach the threshold of Section 304-B of IPC are not available on record. He further submits that the petitioner has been falsely implicated in the present case.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that there was an unexplained time gap between the death and providing information to the jurisdictional police authorities and there are ligature marks on the front of the neck of the deceased going towards the back side and in view of the presumption contained under Section 113-B of the Indian Evidence Act, it is incumbent upon the petitioner to explain the circumstances in which the deceased died of unnatural death in her matrimonial home within seven years of marriage.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable

for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 23.05.2023 and has already undergone actual custody of 01 year 05 months and 11 days as on 03.11.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as only 14 out of 24 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Sanjeev is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

04.11.2024
Neha

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