

209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40573-2024

Date of decision: 29.08.2024

Janu

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Anmol Partap Singh Mann, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

This second petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR
No.211 dated 18.04.2023 under Sections 498-A/304-B of IPC (charge under
Section 302 of IPC also framed in the alternative) registered at Police Station
Sadar Nuh, District Nuh, Haryana.

The FIR (*supra*) was lodged on the statement of the complainant
by alleging that the marriage of his daughter, namely, Dilshama was
solemnized with the accused/petitioner on 21.03.2021 as per Muslim rites and
ceremonies and sufficient dowry was given in the marriage but her in-laws
were not happy with the dowry given and started harassing her for bringing
vehicle. It is further alleged that even after convening *panchayat* several times,
they kept harassing his daughter and resorted to physical violence. It is also
alleged that one Sabba stated to the victim that he and his brother (the petitioner
herein) would kill her and on 17.04.2023, the petitioner made a call to the
complainant to take her back as they would not keep her. Thereafter, the



CRM-M-40573-2024

-2-

complainant along with Sarpanch and its members went to village Ranika and requested accused persons but they abused them. On 18.04.2023, the complainant received a phone call from the neighbourhood of his daughter that his daughter was killed and when they reached at village Ranika, all accused were found missing and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the first application seeking regular bail was dismissed as withdrawn on 21.11.2023, thereafter, the complainant and his son are not coming forward to depose and non-bailable warrants have been issued against them by the learned trial Court and the same is discernible from Annexures P-6 and P-7. He further submits that in spite of issuance of non-bailable warrants, the material witnesses are not coming forward and now the case is listed for 29.10.2024, as such, the second petition seeking regular bail is filed. It is further contended that family of the petitioner and the complainant belongs to poor strata of the society and both parties have been working as labourers and it would be a moot point to be decided by the learned trial Court whether the demand of car by the petitioner is probable keeping in view the financial status of the parties. He further contends that there is no allegation that immediately before the death of the deceased she was subjected to harassment on account of demand of dowry. The petitioner is behind the bars since 30.06.2023.

The learned State counsel has filed custody certificate dated 28.08.2024 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 the deceased has died in her matrimonial home within two years of her marriage with the petitioner and there are serious and specific allegations against the petitioner.

However, he could not controvert the fact that the petitioner is not involved in any other case and non-bailable warrants have been issued against the complainant and his son.

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 13.06.2023. 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 even reached half way mark as only 02 out of 17 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-Janu 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

29.08.2024
Neha

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