

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

CRM-M-41951-2024
Date of decision: 03.09.2024

....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 439 Cr.P.C. seeking regular bail in case bearing FIR No.229 dated 28.06.2023 under Sections 304-B/498-A of IPC registered at Police Station Sadar Jhajjar, District Jhajjar.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that the marriage of her daughters, namely, Pushpa and Ekta was solemnized on 06.02.2018 with Mahesh and Manish, respectively. Husband of her daughter, namely, Ekta and her in-laws used to harass her and resorted to physical violence for bringing less dowry in the marriage. The complainant and her family members went to village Gijarodh to make her husband and in-laws understand but they did not mend their ways. Thereafter, her daughter gave birth to a male child and the accused/petitioner and his family members demanded a gold chain, a gold ring, a car and cash of Rs.2,51,000/-, on account of which, Ekta called the police and they admitted their guilt before the police.

After 2-3 days, the complainant received a phone call from Ekta who stated that



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her in-laws family again harassing her for bringing more dowry and they would kill her. On 27.06.2023, the complainant received intimation through telephone that her daughter, Ekta, was lying dead inside a room and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and in the entire case set up by the prosecution, no specific date has been given with regard to harassment caused to the deceased on account of demand of dowry. The marriage between the parties has taken place on 06.02.2018 and petitioner and his deceased wife were blessed with a son on 04.05.2020. The petitioner is behind the bars since 03.07.2023 and the trial of the case has not made any progress till date. Further, no suicide note is there and there is nothing available on record that deceased was subjected to any harassment on account of demand of dowry immediately before her death, as such, the factual ingredients to breach the threshold of Section 304-B of IPC are clearly missing.

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 petitioner is the main accused and the deceased was subjected to continuous harassment since her marriage with the petitioner on 06.02.2018 was solemnized, which compelled her to end her life.

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 for 01 year 01 month and 26 days as on 02.09.2024. 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 02 out of 11 prosecution witnesses have been examined so far. Now, the mother and father of the petitioner have been summoned as an additional accused under Section 319 of Cr.P.C. and the trial would commence *de novo* which is likely to take long time. 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.

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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-Manish 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

03.09.2024
Neha

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