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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45890-2024

Date of decision: 19.09.2024

Anita Sharma

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai, Advocate and
Mr. Sunil Sihag, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. now under Section 483 of BNSS, 2023 seeking regular bail in case bearing FIR No.61 dated 08.04.2024 under Sections 304-B/34 of IPC registered at Police Station Nangal Chaudhary, District Mahendergarh at Narnaul.

The FIR (*supra*) was lodged on the statement of the complainant that on 28.04.2021 his daughter was married to Nitesh and he had spent an amount of Rs.8 lakh in the marriage but her in-laws were not happy with the dowry given. Thereafter, the in-laws of his daughter along with Nitesh, started demanding bullet bike and Rs.2 lakh and when his daughter refused, they harassed and abused her and resorted to physical violence. On 08.04.2024, her in-laws and husband forced her to bring more dowry and gave her beatings and hurled abuses and killed her and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the



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deceased has committed suicide after she had an altercation with her husband and the petitioner has been falsely implicated in the present case being mother-in-law of the deceased. The perusal of the FIR (*supra*) indicates that only general and vague allegations have been levelled against the petitioner and there is nothing on record to remotely suggest that immediately before the death, the deceased was subjected to harassment on account of demand of dowry, as such, the foundational ingredient to breach the threshold of Section 304-B of IPC, is clearly missing and on the same set of allegations, five co-accused have been declared innocent by the jurisdictional police authorities and the investigation is complete and there is no one in the family to look after the minor grand child of two years of age.

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 the deceased has died of unnatural death within three years of her marriage and her death has occurred in matrimonial home, as such, it is incumbent upon the petitioner and her son to explain the circumstances in which the victim died and thus, the petitioner is not entitled to grant the concession of regular bail.

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 17.05.2024. 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 out of 19 prosecution witnesses, none has 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 her 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-Anita Sharma is ordered to be released on regular bail during trial on her 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

19.09.2024
Neha

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