

2024:PHHC:150389



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217

CRM-M No.47074 of 2024
Date of Decision: 18.11.2024

Jaipal ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Punit Malik, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
194	09.05.2022	Furrukh Nagar, District Gurugram	307 and 326-A of IPC

2. As per the prosecution case, on 09.05.2022, the complainant Ashok submitted a written complaint alleging therein that the petitioner used to make unwelcome overtures against his elder daughter Seema from the roof of his house and his daughter had told him about this fact. The marriage of his daughter was fixed for 11.05.2022. On the night of 08/09.05.2022, he along with his daughter had gone to sleep in a room

2024:PHHC:150389



constructed on the roof of his house. After getting up in the next morning, he had gone to his plot for feeding the cattle. Sometime thereafter, he received information that the petitioner had poured petrol on his daughter and had set her ablaze. Hence he prayed for taking action in the matter. Initially, a case under Sections 326-A and 307 of IPC was registered. Investigation proceedings were initiated. The victim succumbed to the burn injury sustained by her and died on 03.07.2022. After her death, offence under Section 302 of IPC was added. The postmortem examination and inquest proceedings of dead body were conducted. The petitioner was arrested on 10.05.2022. Presently, he is facing trial for commission of the aforementioned offences. He had moved an application for grant of regular bail which had been dismissed by the Court of learned Additional Sessions Judge, Gurugram vide order dated 09.08.2024.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There is no eye-witness to the incident. Infact the victim was in love with the petitioner and her family member including the complainant were against this relation. They had fixed her marriage with some other boy for 11.05.2022. The victim was burnt alive by her own family members and it was a case of honour killing. The complainant was not eye-witness to the incident. As per the case history as disclosed by the family members of the victim at the time of her admission in the hospital, four known boys had immolated the victim at about 5:30-6:00 AM on 09.05.2022 and she was rescued by neighbourers but strangely

2024:PHHC:150389



no evidence was collected to know about the details of those unknown boys. Apart from the petitioner, there is no whisper of involvement of any other person in the commission of subject offence. No trace of petroleum product had been detected from the duppata, hair and clothing of the victim and hydrocarbon of petroleum fraction were detected only from a matchbox allegedly recovered from the spot which have created doubt that the kerosene oil was poured over the victim or not. The complainant has since been examined and his statement does not show as to by whom he was informed that the victim had been set ablaze by the petitioner. The act and conduct of the father of the victim after the occurrence is quite improbable and unnatural as admittedly he did not even accompany the victim to the hospital at Pataudi and Delhi wherein she had remained admitted. No dying declaration of the victim had been recorded though she remained alive for a period of two months after the incident. The petitioner is in custody since long. The trial is likely to take time. His further detention would not serve any purpose. He is ready to abide by the terms and conditions for grant of bail. With these broad submissions, it is urged that petition deserves to be allowed.

4. Status report has already been filed by the respondent-State. It is submitted therein and it is argued by learned State counsel that there are grave and specific allegations against the petitioner. He was named in the FIR. He had fled from the place of occurrence after setting the victim ablaze and committed a serious offence. There are chances of his fleeing and

2024:PHHC:150389



intimidating other witnesses if extended benefit of bail. Therefore, it is urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record.

6. The petitioner is alleged to have set the victim on fire on 09.05.2022. She had sustained 50-55% of burn injuries and succumbed to the same on 03.07.2022. There is no eye-witness to the incident and it is based on circumstantial evidence. The complainant stands examined. It has come on record during the course of arguments that the roka ceremony of the victim was performed on 08.05.2022 and her marriage was fixed for 11.05.2022 i.e. within three days in a hurried manner. The petitioner is in custody for a period of two and half years. The trial is likely to take time as several witnesses remain to to be examined. The case is based on circumstantial evidence and no specific circumstance has been quoted to connect the petitioner with the subject crime. A perusal of Annexure P-5 which is copy of statement of Investigating Officer PW-5 ASI Ram Kumar reveals that during his cross-examination, mobile phone of the present petitioner which was in custody of the Investigating Officer had been switched on and from the photo gallery of the said phone, photocopy of a letter shown to be written by the victim had been found as per which, the victim had intimated that she was being married forcefully by her family members, who were also bent upon administering poison to her. It is a matter of trial as to whether the victim sent this letter through

2024:PHHC:150389



message/Whatsapp to the petitioner. In view of what has been discussed above but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petitioner deserves to be released on bail at this stage. Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

18.11.2024
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(MANISHA BATRA)
JUDGE

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