



Tehna. That his brother-in-law Kuldeep Singh (petitioner) wanted to remarry, due to which he used to give beatings to his sister Jasmeen Kaur after consuming liquor and used to ask her to leave with her children to somewhere. Harmander Singh, father-in-law of complainant's sister also used to harass and abuse her and wanted to remarry his son. They did not provide any clothes or other household articles to his sister and his sister used to eke livelihood for herself as well as for her children by doing labour work. So many times, complainant requested his brother-in-law Kuldeep Singh (petitioner) and his father Sukhmander Singh not to harass his sister, but they did not mend their ways and kept on harassing his sister. They wanted to oust complainant's sister from her matrimonial house so that Kuldeep Singh (petitioner) get remarried. That his sister was so distressed that she often told him that she would end her life, but he used to make her understand to not to commit such act for the sake of her children. On that day at about 8.00 AM, complainant received a telephonic call from Gurwinder Singh, Sarpanch of village Nawan Tehna, that his sister had jumped into the Rajasthan Feeder near Talwandi Chowk. Upon which, he along with his uncle Balraj Singh and other relatives reached at the spot and searched for the dead body of his sister Jasmeen Kaur. That as per complainant, his sister Jasmeen Kaur committed suicide by jumping into the canal due to the harassment caused to her by her husband Kuldeep Singh (petitioner) and father-in-law Harmander Singh. Hence, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the marriage between the petitioner and deceased had taken place 15 years ago and there is not even a single complaint with regard to subjecting the deceased to any harassment. The perusal of the prosecution case clearly indicates that no



specific instance has been attributed to the petitioner with regard to any instigation within the meaning of Section 107 of IPC to make him liable for an offence under Section 306 IPC. Further, the deceased was suffering from depression. The investigating agency has already concluded the investigation and presented the final report under Section 173 Cr.P.C. The petitioner is not involved in any other case.

4. *Per contra*, learned State counsel produces custody certificate, which is taken on record and opposes the prayer of the petitioner on the ground that the petitioner is the main accused and he being the husband, had been harassing his deceased wife on the pretext of performing second marriage.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that as per custody certificate, the petitioner is behind the bars since 20.05.2024 and has undergone a period of 04 months and 23 days as on 13.10.2024 and he is not involved in any other case. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case is likely to take long time as out of 15 witnesses cited by the prosecution, none has been examined so far. Further incarceration of the petitioner, without there being the prospect of the conclusion of the trial, in the near future, would be violative of his rights under Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. 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.”

7. In view of the above, the present petition is allowed and the petitioner-Kuldeep Singh 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.

8. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

October 14, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No