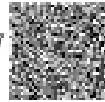


supporting his *Jija* Mangat Singh and they both used to beat and torture his sister mentally. In the morning of 30.06.2024, he came to know that his *Jija* Mangat Singh and his brother have beaten up his sister Tosha Rani and in this regard, he made a telephonic call to his sister on the mobile phone of her father in-law and in turn, his sister narrated about the incident to him. He told his sister that he will come in the evening. At about 10.15 PM, his *Jija* Sukhdev Singh son of Mukhtiar Singh resident of village Jhok Dippulana informed him that Tosha Rani has committed suicide in her room by strangulating herself. Thereafter, he alongwith his *Jija* Sukhdev Singh and uncle Kala Singh son of Arjan Singh resident of village Muhar Sona reached the in-laws house of Tosha Rani, where her dead body was lying on the cot in the courtyard and marks were also present on her neck. The complainant further stated that as his *Jija* Mangat Singh and his brother Sachin Singh alias Deep (petitioner herein) used to beat his sister Tosha Rani, so due to their abetment, his sister Tosha Rani has committed suicide by strangulating herself. Hence, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is unmarried brother-in-law of the deceased and he has been falsely implicated in the present case only for the reason that he is related to the husband of the deceased and no suicide note has been recovered to corroborate the case set up by the prosecution and the factual ingredients to constitute the offence of abetment as provided under Section 107 of IPC are not available and there is no allegation that the petitioner played any active role which has any proximity with the suicide of the deceased. The petitioner is behind the bars since 02.07.2024 and is not involved in any other case. To support his contentions, learned counsel has placed reliance upon the ratio of law laid



down by Hon'ble Supreme Court in the case of ***Sanju @ Sanjay Singh Sengar vs. State of Madhya Pradesh, 2002 (2) RCR (Criminal) 687.***

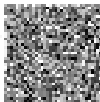
4. *Per contra*, learned State counsel produces custody certificate, which is taken on record and opposes the prayer of the petitioner on the ground that there are serious and specific allegations against the petitioner and due to the harassment of the entire family, the deceased was compelled to commit suicide.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind the bars for last more than 03 months 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 13 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-Sachin Singh *alias* Deep *alias* Sachin 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 04, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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