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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51324-2024 (O&M)
Date of decision: 25.11.2024

Anil

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sube S. Kaushik, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

CRM-46291-2024

1. This application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for placing on record the Post Mortem Examination Report and CCTV footage as Annexures P-4 & P-5.
2. In view of the averments made in the application, same is allowed and Post Mortem Examination Report dated 19.05.2024 and CCTV footage are taken on record as Annexures P-4 & P-5, respective, subject to all just



exceptions.

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3. Present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking regular bail in case bearing FIR No.134 dated 19.05.2024 under Sections 306, 498-A, 34 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Sadar Safidon, District Jind.

4. The present FIR was registered on the basis of a complaint given by father of the victim, on the allegations that marriage of his younger daughter 'D' (name withheld) was solemnized with the petitioner on 26.11.2016 and in the marriage, he gave lot of dowry articles. A male child was born out of this wedlock. Thereafter, the petitioner and his family members started demanding more dowry from his daughter and they also gave beatings to her. On 28.04.2024 at about 09.00 a.m., his son namely Sunny received a phone call from the petitioner that his sister called the police by calling on 112 and asked him to take his sister back otherwise she would be killed. Thereafter, a panchayat was convened and the matter was compromised. On 18.05.2024 at about 07.30 p.m., his son namely Sunny received a phone call from the petitioner regarding committing of suicide by his daughter and upon this, he along with his family members reached at the spot and found that his daughter was lying on the floor and she received

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multiple injuries on her body.

5. Learned counsel for the petitioner, *inter alia*, contends that place of occurrence is a pond abutting temple in the village and she was seen entering the temple and going towards the pond in the CCTV footage obtained by the investigating agency from the premises of the temple. She suffered injuries, when she jumped into the pond and as per final report under Section 193 of BNSS (*erstwhile Section 173 of Cr.P.C.*) submitted by the investigating agency, the deceased died due to drowning in the pond situated in Village Muana. It is further contended that there is no evidence available on record to indicate that the petitioner has played active role, which has any proximity to suicide by the deceased to make him liable for abetment as provided under Section 45 of Bharatiya Nyaya Sanhita, 2023 (*erstwhile Section 107 of IPC*). The investigation of the case is complete and the petitioner is behind bars since 31.05.2024.

6. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that there was a matrimonial dispute between the petitioner and his wife-deceased and earlier also, a compromise was effected one month prior to the incident, however, the deceased was continuously harassed on account of demand of dowry.

7. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner



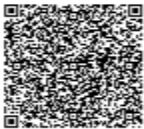
is behind bars since 31.05.2024 and the trial of the case will take long time in its conclusion, as none out of 32 prosecution witnesses has been examined so far. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21

86. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“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.”

9. In view of the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of

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the trial, petitioner Anil is ordered to be released on regular bail during trial on his furnishing bail/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

10. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned trial Court shall proceed without being prejudiced by the observations of this Court.

25.11.2024
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[HARPREET SINGH BRAR]
JUDGE

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