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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51687-2024 (O&M)
Date of decision: 24.10.2024

Albaksh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ritesh Pandey, Advocate
for the petitioner.

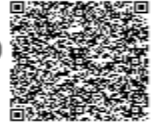
Mr. Sandeep Kumar, DAG, Punjab.

Mr. Gobind Singh Randhawa, Advocate
for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR
No.107 dated 25.09.2023 under Sections 306 & 34 of the Indian Penal Code,
1860, registered at Police Station Dhariwal, District Gurdaspur.
2. The present FIR was registered on the basis of statement of father
of the prosecutrix, on the allegations that he has three daughters and one son
and they all are married. The marriage of his eldest daughter 'R' was

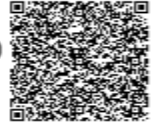
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solemnized on 28.08.2016 with the petitioner and on 25.09.2023 at about 02.30 p.m., his son informed him about receiving a telephonic call regarding consuming of some poisonous substance by her and due to which, she died. Thereafter, he along with ex-Sarpanch reached Civil Hospital, Gurdaspur and dead body of his daughter was lying in the mortuary and he had firm belief that she committed suicide due to harassment at the hands of the petitioner and his family members.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the case. There is no direct or indirect evidence against the petitioner to remotely suggest that he had taken some active step, which has some proximity with suicide by the deceased. The marriage between the petitioner and the deceased was solemnized on 28.08.2016 and till the date of death of deceased, there was no previous complaint with regard to any harassment by the complainant against the petitioner or by the deceased herself. The petitioner is behind bars since 26.09.2023 and after passing of more than 01 year, the trial has not made any substantial progress. A perusal of the record further reveals that nothing specific has been alleged against the petitioner with regard to abetment.

4. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, opposes the prayer for grant of regular bail to the petitioner on the ground that there are serious and specific allegations against the petitioner. The petitioner is having illicit relations with some lady in the village



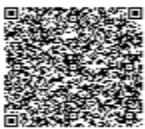
and he used to beat the deceased. As such, he is responsible for the suicide committed by the deceased.

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 in custody for the last 01 year and 25 days as on 22.10.2024 and the trial of the case has not even reached halfway mark as only 01 out of 10 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 of the Constitution of India.

6. 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

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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, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Albaksh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

8. 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.

[HARPREET SINGH BRAR]
JUDGE

24.10.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No