



CRM-M-53275-2024

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Ajay, the accused/petitioner used to beat the deceased/victim. It is further alleged that many times, the *panchayats* were also convened but the accused persons did not mend their ways. On 31.05.2024, the accused/petitioner and his both sons had a fight with the sister/victim of the complainant and they resorted to physical violence and tried to throw her out of the house, on account of which, his sister/victim got fed up and consumed some poisonous substance and during the treatment, she died and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the deceased has committed suicide after 25 years of marriage and there is no material available on record which would suggest that petitioner has played any active role which has proximity with the suicide of the deceased and there is nothing on record to remotely suggest any *mens rea* and the allegations lack specificity to make out a case of abetment against the petitioner. The material witnesses including the complainant have been examined and all three prosecution witnesses have not supported the prosecution version and the learned Public Prosecutor has declared them hostile. He further has placed reliance upon Annexure P-2 i.e. the statements of the PWs. It is further submitted that the petitioner is not involved in any other case and he is behind the bars since 02.06.2024.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner is the main accused and the deceased has committed suicide in the matrimonial home, as such, the petitioner is not entitled to any relief. However, she could not controvert the fact that the petitioner is not involved in any other case.



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.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 02.06.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as only 03 out of 12 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. 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.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Ramesh Kumar 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.

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

(HARPREET SINGH BRAR)
JUDGE

04.11.2024
Neha

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