



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

CRM-M-57089-2023

Date of Decision: 08.05.2024

Saurav Jain

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Swarn Singh Tiwana, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Nirmal Sharma, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

Fresh Vakalatnama with 'no objection' from the previous counsel filed on behalf petitioner is taken on record.

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 260 dated 05.12.2022 registered under Sections 304-B IPC at Police Station Civil Lines, District Patiala, wherein charges have been framed under Section 306 IPC and only alternatively under Section 304-B IPC, during the pendency of trial.

In brief, prosecution story is that the aforesaid FIR was registered on the basis of complaint moved by Shagun Jain/brother of the deceased to the effect that marriage of his sister-Preeti Jain (since



deceased) was solemnized with the petitioner as per Hindu Rites and Rituals. Sufficient dowry including jewellery, furniture, clothes, electronic etc. was given at that time, but the petitioner-husband and in-laws family of the deceased were not happy with the dowry articles given at the time of marriage and used to taunt her for bringing more dowry and also used to harass and torture her in this regard. The deceased had told the complainant about this couple of times, but also assured him that she will adjust herself. About 1½ years of marriage, the deceased had given birth to a male child, but the in-laws family of the deceased kept on torturing her for bringing more dowry and used to say to the deceased that her parents did not give us 'Thar'. The deceased had told everything to her elder sister Aashita Jain that her husband/petitioner herein was having illicit relations with someone. That the sisters-in-law (*Nanad*) of the deceased also used to mentally torture the deceased by saying that 'your skin tone is black and your child's colour is black' and they also used to say that until you die, this dispute in our house would not come to an end. On 28.11.2022 at about 10:17 PM, mother-in-law of the deceased had made a phone call to the complainant and told him that after taking food, the deceased went to her room and had done something to her, and when the complainant along with his family had reached at Rajindra Hospital, Patiala, they saw the dead body of the deceased lying in the Mortuary. There were injury marks on her face, neck and hands and the petitioner had told them that she had committed suicide by hanging herself with a fan. With these broad allegations, the aforesaid FIR was



registered.

Learned counsel for the petitioner, *inter alia*, submits that petitioner was married to the deceased on 29.04.2018 and one male child was born out of the said wedlock, who is currently in the care and custody of the parents of the petitioner. It is stated that on 28.11.2022, the deceased-wife of the petitioner had committed suicide by hanging herself with the ceiling fan after tying *dupatta/chunni* around her neck. Learned counsel for the petitioner refers to the statement of the complainant dated 29.11.2022 (Annexure P-2); wherein he has stated that he had no suspicion on anyone and action, if any, would be taken after getting post mortem report. Learned counsel also refers to the statement of the paternal uncle/*chacha*, dated 29.11.2022 (Annexure P-3); wherein he has also stated that the deceased hung herself by tying her neck with *chunni* on the ceiling fan from her room.

Further, reference has been made to the Inquiry Report dated 15.02.2023 (Annexure P-5) submitted by the Deputy Commissioner of Police, Special Branch and Criminal Intelligence, Patiala, wherein at page No. 34 of the paper-book it has been recorded that the deceased had joined a Kitty Group; and from the statements it has come to the knowledge that deceased used to demand money to help her brother financially, but as per financial condition of the petitioner he could not help the brother of the deceased/complainant herein. It has further been recorded therein that after recording the statement of the complainant (Annexure P-2), the police had initiated proceedings under Section 174



Cr.P.C. vide G.D. No. 29 dated 29.11.2022. It was only thereafter, that it was alleged by the complainant that the petitioner was having illicit relations with someone. However, this fact has not been substantiated by any evidence/proof.

Learned counsel submits that it has further been reported vide Annexure P-5 (at page Nos. 37 and 38 of the paper-book) that the complainant had produced before the I.O., whatsapp chat of the deceased with him dated 26.11.2022, wherein the deceased had stated that everything was alright, and that the petitioner and her parents-in-law are all fine. The Deputy Commissioner of Police, Special Branch and Criminal Intelligence, Patiala, has further reported in the said report that from the aforesaid whatsapp chat *'it is clear that deceased-Preeti Jain was not harassed by her in-laws family members. If any such thing was there, then Preeti Jain should have said anything regarding that during her chat..... From the investigation being conducted till now, nothing is found regarding causing of harassment to the deceased by her in-laws family for demand of dowry'*.

Further, it is submitted that as even per Postmortem Report, there were no injury marks on the face of the deceased and there were no marks of struggle which proves that she was not killed forcibly. Moreover, the petitioner has been in custody since the date of his arrest i.e. 20.02.2023. The trial is likely to take a long time to conclude. The minor child of the petitioner is currently with the parents of the petitioner. Thus, it is prayed that petitioner be released on regular bail.



Per Contra, learned counsel for the State assisted by learned counsel for the complainant vehemently opposes the prayer for grant of regular bail to the petitioner and refers to the findings recorded in the report (Annexure P-5) at page 42 of the paper-book and submits that a Reddish Blue Contusion of 4cm x 1.5 cm was found on the right forearm of the deceased, therefore, it is incorrect to suggest that there were no injury marks on the body of the deceased. It is submitted that very serious allegations have been made against the petitioner and that he had illicit relations with some lady. It has come on record that the deceased was taunted by the petitioner and his family members for skin colour and there was demand of car by the petitioner side.

On a Court query as to whether any complaint has been made by the deceased with regard to the alleged taunting, demand of car and alleged illicit relations of the petitioner with some lady, learned counsel for the State and the complainant admit that this was not so.

It is further noticed that the date of incident is 29.11.2022; whereas the present FIR was registered on 05.12.2022. Learned counsel for the complainant explains that firstly a complaint was made by the complainant to the Senior Superintendent of Police, concerned on 02.12.2022 for registration of FIR; subsequently, another complaint was made on 03.02.2022 to the SHO concerned and in pursuance thereof, the present FIR was registered on 05.12.2022.

Learned counsel for the State has filed custody certificate dated 06.05.2024, which is taken on record, as per which the petitioner



has been in custody as an undertrial for a period of 01 year, 02 months and 15 days. As per custody certificate, there is no other case against the petitioner. On instructions from ASI Natara Ram, learned counsel for the State informs that out of total 13 prosecution witnesses, only the complainant has been partially examined so far.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case; including the custody period undergone by the petitioner and perusal of the custody certificate reveals that there is no other case against the petitioner; and also the fact that conclusion of trial will take considerable time as out of total 13 prosecution witnesses only the complainant has been partially examined so far, and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is **allowed**.

The petitioner-Saurav Jain S/o Ramesh Jain, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

08.05.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No