

**CRM-M-54217 of 2024** **1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****218****CRM-M-54217 of 2024****DATE OF DECISION :- 13.11.2024****Shivam****...Petitioner****Versus****The State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present:-** Mr. Ritesh Tomar, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.09 dated 05.01.2024, registered for the offences punishable under Sections 304-B/, 34 of IPC at Police Station Arsh Nagar, District Faridabad.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Sir, Incharge of Police Post, Adarsh Nagar, Ballabgarh, Faridabad, Sir, it is requested that I am Jachin Kumar son of Pannalal, resident of Subhash Colony, Ballabgarh. I married my daughter to Shivam son Rakesh, resident of Harivihar, Patthar Wali Gali on 24 February 2023. The girl was safely lived there for few days. Now for the last six months, they were harassing the girl for car, chain and cash. We went to the spot and explained to them many times but those people, greedy for dowry, did not listen. Today at 11 am we got a call that the girl is very ill. Come quickly, this news was told to us by the boy's maternal uncle Vishnu on the phone that they have been



fighting among themselves for two days. After a while, we came to know that the girl is being taken to the hospital. Then when we went to the spot, we found the girl dead. They killed her, including her husband Shivam, maternal uncle Vishnu, Rekha, the boy's mother and Shivam's maternal grandmother, whose name is Pushpa. All these people together got the girl killed. Therefore, you are requested to take strict action against such people. We will be thankful to you. Sd/ Jachan Kumar Prathap Jachan Kumar Mobile No. 8810448665 investigation Police today on 05.01.2024 received information through ERV that a woman has hanged herself in Harivihar Colony, Ballabgarh, on receiving the information I ASI along with HC Anil No. 256/FBD reached Harivihar Colony at the spot of incident, and saw a girl Kajal W/O Shivam lying dead in the veranda outside the room. Father of the deceased, Jachan Kumar, who was present here, submitted the above mentioned application, which, on the verification of the application or on the verified circumstances, found that crime under Sections 304 B, 34 IPC had been committed, and a complaint was lodged with the HC Anil 256/FBD. After the registering the case, case number should be informed. Special reports of the case should be sent to the higher officials. Crime team should be sent to the spot. I ASI was busy in the investigation under Section 174 CrPC. Today:- Harivihar Colony Ballabgarh Sd/ Netarpal ASI Police Station Adarsh Nagar Date 05/01/24 Time 08.10 PM Today Police Station On receipt of the above mentioned complaint in the police station, case No. 09 Dated 05.01.2024 Sections 304 B, 34 IPC Police Station Adarsh Nagar FIR was registered and copies of FIR were prepared through computer, which is being sent to the higher officials and Illaqa Magistrate through Special Constable Narendra 177/Faridabad. After which, FIR was registered and sent to the Police along with copy of original complaint.”



3. Learned counsel for the petitioner has argued that the petitioner is in custody since 05.01.2024. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question primarily on account of misunderstanding. Learned counsel for the petitioner has further argued that the petitioner was not even present at the spot when the occurrence took place. Learned counsel for the petitioner has further argued that there is no material available in the challan to indicate that there was any harassment meted out to the deceased on account of dowry immediately before her death so as to invoke the offence under Section 304-B of IPC. Learned counsel for the petitioner has further argued that the complainant (father of the victim) as also the grand father of the victim have turned hostile and thus the trial is not likely to culminate into conviction. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 12.11.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 05.01.2024 whereinafter investigation was carried out and challan stands presented on 01.04.2024. Total 17 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time. It is not in dispute that the complainant (father of the victim) as also the grand father of the victim have been



contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question primarily on account of misunderstanding, the evidence which may be brought forward during defence as to whether the petitioner was not present at the spot when the occurrence took place and effect thereof as also the weightage required to be attached to the testimonies of the hostile witnesses namely the complainant (father of the victim) as also grand father of the victim; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 12.11.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of 10 months and 08 days & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.



- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

13.11.2024
P.Singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No