

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

221

CRM-M-58643-2023

Date of decision:30.01.2024

Ashwani Kumar @ Sunny

....Petitioner

V/s

State of U.T. Chandigarh

....Respondent

**CORAM: HON’BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Gautam Dutt, Advocate for the petitioner.

Mr. Manish Bansal, P.P. U.T. Chandigarh with  
Mr. Navjot Singh, Advocate for the respondent.

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**SUMEET GOEL, J. (Oral)**

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.12 dated 26.01.2023, registered for the offences punishable under Sections 304-B, 306, 498-A & 34 IPC (alternative charge under Section 302 IPC) at Police Station Sector 39, Chandigarh.

2. The case set up in the FIR in question is as follows:-

*“Complaint for registration of FIR. Respected SHO, I, Sanjay Singh son of Sh. Arjun Singh am resident of Village Karnapur, Tehsil and District Amethi. I solemnized marriage of my elder daughter Shivani, aged 26 years on 21.11.2021 with Ashwani @ Sunny s/o Raja Ram, r/o H. No.2800, Dr. Ambedkar Niwas, Sector 56, Chandigarh with great pomp and show and I had spent a lot beyond my capacity. On the asking of Sunny and his family, I had spent more than amount of Rs.5,00,000/-. They have a 4 months old son. Neither Sunny nor his family took my daughter to the hospital nor did they inform the police about it. When we informed the police about it, then on 26.01.2023, postmortem of my daughter was conducted in a hospital at Sector 16. We on the wedding and the entire dowry articles was given Including cash amount of Rs.3,00,000/- and gold jewellery worth Rs.5,00,000/-. After marriage, Sunny and his family remained good for some time but thereafter, they continuously harassed*

*my daughter Shivani on the pretext that she has brought less dowry and they had asked for a car in dowry, but her parents did not give it. My son Virender Pratap Singh stayed in my daughter's in-laws house for about 6 months. Even during his presence, we came to know about Sunny from time to time but we did not initiate any proceeding because we wanted our daughter's house to be settled. But Sunny did not change his behaviour. On 24.01.2023 at about 03:00 AM, my father-in-law Sh. Shiv Charan Singh got phone call that Shivani had committed suicide by hanging herself. I immediately left for Chandigarh and I reached Chandigarh at about 11:30 PM. After coming there, I enquired about the incident from Sunny and his family members. They said that my daughter Shivani and Sunny had a fight at 01:00 AM and after that, she committed suicide by hanging herself at about 02:00 AM. This story seems to be fabricated to me because Sunny had not been allowing us to talk to Shivani for 1/2 days. They have a 4 months old son. Neither Sunny nor his family took my daughter to the hospital nor did they inform the police about it. When we informed the police about it, then on 26.01.2023, postmortem of my daughter was conducted in a hospital at Sector 16. We are absolutely sure that my son-in-law Ashwani @ Sunny, his father Raja Ram, his mother Devmati, his sister Roopa in connivance with each other have killed our daughter by torturing her on the pretext of dowry. I have full belief that Ashwani @ Sunny has an illicit relationship with another girl. Kindly initiate stern action against above mentioned persons and justice be delivered to us. Sd/- Sanjay Singh, dated 26.01.2023, Sanjay Singh, r/o Village Karnaipur, Tehsil and District Amethi, Uttar Pradesh, DOB 10.12.1975.”*

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 26.01.2023 whereinafter investigation was carried out and challan stands presented. Trial is underway wherein the prime prosecution witness/complainant i.e. Sanjay Singh (father of the deceased) has already been examined as PW-2. Learned counsel has further referred *in extenso* to the testimony of the above said witness especially the cross-examination, to submit that the material evidence brought on record does not indicate the

present case to be one under Section 304-B IPC. 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 30.01.2024 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 26.01.2023 and trial is underway. Out of total 22 cited prosecution witnesses, 05 have been examined whereas 03 have been given up. The prime private witness i.e. father of the deceased already stands examined as PW-2. The rival contention of learned counsel for the parties, regarding the weightage to be attached to the testimony of the above said witness i.e. PW-2 (Sanjay Singh, father of the deceased), will be gone into during the course of trial. This Court does not deem it appropriate to delve deep into the rival contentions, at this stage, lest it may prejudice the case of either parties. As per custody certificate dated 30.01.2024 filed by learned P.P. U.T. Chandigarh, the petitioner has already suffered incarceration for a period of more than 01 year & same does not reflect involvement of the petitioner in any other case. No tangible material has been brought on record to indicate the likelihood of the petitioner fleeing from the process of law or interfering with the remaining prosecution evidence. In considered opinion of this Court, in the

facts and circumstances of the case, further detention of the petitioner as undertrial is not warranted.

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 cellphone 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

January 30, 2024  
*Ajay*

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