



harass his daughter and gave beatings to her. On 29.7.2023 at about 11:00 PM, he talked with Savita (deceased) and she was weeping and he made her understand. On 30.07.2023, he called Vimal on phone and asked him to let him talk with Savita but he told that she was sleeping. At about 11:00 PM Vimal made a telephonic call and told that they were in Asian Hospital, Sector-88, Faridabad. When they reached at Asian Hospital, they found his daughter Savita dead and on enquiry from the staff, they come to know that Savita was brought dead. On this complaint, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case. Learned counsel submits that the alleged incident has taken place due to the matrimonial dispute between the co-accused Vimal Sharma and the deceased. In fact, the deceased was suffering from epilepsy since year 2012. Learned counsel further submits that the ingredients of commission of offence punishable under Section 306 of Indian Penal Code are not attracted at all and there is nothing on record to show that the petitioner has abetted the suicide of the deceased, rather, her death occurred due to overdoes of medicines of epilepsy, as mentioned in the post-mortem report itself. Furthermore, the petitioner is behind the bars since 12.05.2024 and she is a household lady. Admittedly, the death of deceased had taken place in the matrimonial home and the petitioner has absolutely no concern with the alleged incident in any manner.

4. *Per contra*, learned State counsel assisted by Mr. Ritesh Tomar, Advocate, who has put in appearance on behalf of the complainant and filed his *vakalatnama* which is taken on record. Registry is directed to tag the same at the appropriate place. Further, he vehemently opposes the prayer made by the petitioner on the ground that WhatsApp chats between the petitioner and co-accused Vimal



Sharma are taken into possession. Learned State counsel further submits that a verbal altercation had taken place between the deceased and her husband. Custody certificate filed by the respondent-State is taken on record.

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 behind the bars since 12.05.2024 and has undergone a period of 06 months and 02 days as on 13.11.2024 and is not involved in any other case. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case is likely to take long time as out of 16 witnesses cited by the prosecution, none has been examined so far. Further incarceration of the petitioner, without there being the prospect of the conclusion of the trial, in the near future, would be violative of her rights under Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. 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.”

7. In view of the above, the present petition is allowed and the petitioner-Rakhi is ordered to be released on regular bail during trial on her furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

November 14, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No