

2024:PHHC:015472

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

288

CRM-M-60184-2023
Date of decision:05.02.2024

Punit alias Puneet Dua

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vishal Yadav, Advocate, for the petitioner.

Mr. Ankita Ahuja, AAG, Haryana.

Mr. Satbir Singh, Advocate with
Ms. Kranti Singh Khokhar, Advocate, for the complainant.

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.437 dated 07.08.2023 registered for the offences punishable under Sections 306 & 34 of IPC at Police Station Faridabad Kotwali, District Faridabad.

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

“To, Police Chowki Incharge Sir, NIT-2, Faridabad. Sir, it is submitted that I, Subhash Chatter Rohilla, son of Late Sh. Komal Prasad, resident of House No. 220, Fruit Garden, NIT Faridabad, work in Auto Start Company, Sector 27 A, Faridabad. I have one son and one daughter. My daughter Madhuri was married in the year 2011 according to Hindu customs with Puneet S/o Sri Sh. Harish Chander Dua, resident of 21/129 NIT, Faridabad. Shortly after the marriage, in-laws my daughter Madhuri- Puneet Dua (husband), Harish Chander Dua (Father-in-law) and Meena Dua (Mother-in-law), Jatin Dua

(Brother- in-law) started harassing my daughter Madhuri for dowry and repeatedly kept demanding money from my daughter Madhuri till the time I could fulfill their demands. I had fulfilled the demands of these people but the greed of all of them increased day by day. My daughter has worked at many places to run her household but my son-in-law Puneet used to keep my daughter's earnings with himself and he used to keep on abusing my daughter Madhuri. Eventually my daughter left her job and my daughter opened a beauty parlor shop with her PF money to run her household. But my son-in-law and all his family members used to keep a daily accounts of my daughter and also used to abuse her. Many times my son-in-law Puneet even used to beat my daughter Madhuri, which my daughter told me and my family many times, on which I tried to make all these people understand and I asked my daughter to go to her matrimonial home, my son-in-law even realized his mistake several times and assured me not to trouble my daughter in future, but later on he used to drink alcohol and quarrel. About 15 days ago from today, my son-in-law Puneet Dua also tried to harass my daughter Madhuri. Her father-in-law Harish Chander, mother-in-law Meena, brother-in-law Jatin Dua and Neha's wife Jatin Dua, supported my son-in-law Puneet, assaulted and tortured my daughter and forced her to bring money from her parents. When my daughter told me about all this, I, my wife Rajni Devi, my brother Ashwani Kumar Rohilla, my son Shrikant Rohilla went to house of the in-laws of my daughter Madhuri and expressed our helplessness about not having money and requested everyone not to trouble our daughter Madhuri. and returned to our home. Today on 07.08.23 at around 12:20PM, I was on duty at my auto start company Sector 27 A Faridabad when I got a call from my son-in-law Puneet Dua and he told me that Madhuri is unwell, please come home soon, as soon I reached the house of my daughter Madhuri i.e House No. 2H/ 129,NIT Faridabad, I saw my daughter was hanging from the fan of the hall of the house. I quickly called my brother Ashwani Rohilla so all my family members reached. My daughter Mudhuri has been harassed for the demand of dowry by Puneet Dua (Husband), Harish Chander Dua (father-in-law),

Meena (mother-in-law), Jatin Dua (brother-in-law) and Neha's wife Jatin Dua(sister-in-law). They all in conspiracy have killed my daughter and hang her with a fan after killing her. Strict legal action be taken against all these and they all be punished. Sd/- Subhash Chander Rohilla."

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 08.08.2023 whereinafter investigation was carried out & challan has been presented. Learned counsel for the petitioner has argued that the marriage between the petitioner and the deceased took place in the year 2011 and they were blessed with two children. The material referred to in the challan (report under Section 173 of Cr.P.C.) does not reflect sufficient grounds to invoke Section 306 of IPC since there was no instigation at the instance of the petitioner in close proximity to the death of the deceased. In this regard, learned counsel has relied upon the judgment passed by the Hon'ble Supreme Court in the case of **Mohit Singhal and another vs. The State of Uttarakhan and others,** reported as **2023 INSC 1035**. Relevant portion whereof reads as under:-

"9. In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide.

10. In the present case, taking the complaint of the third respondent and the contents of the suicide note as correct, it is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the amount borrowed by the third respondent from her husband by using abusive language and by assaulting him by a belt for that purpose. The said incident allegedly happened more than two weeks before the date of suicide. There is no allegation that any act was done by the appellants in the close proximity to the date of suicide. By no stretch of the imagination, the alleged acts of the appellants can amount to instigation to commit suicide. The deceased has blamed the third respondent for landing in trouble due to her bad habits.

11. Therefore, in our considered view, the offence punishable under Section 306 of IPC was not made out against the appellants. Therefore, the continuation of their prosecution will be nothing but an abuse of the process of law.”

Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

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

6. The petitioner is in custody since 08.08.2023 whereinafter investigation was carried out & challan stands presented on 07.10.2023. The rival contentions of the learned counsel for the parties as to whether the offence under Section 306 of IPC is invoked in the case or not will 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 case of the either parties. No perceptible material has been brought

forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 02.02.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 6 months & is not shown to be involved in any other case. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

7. In view of totality of factual matrix of the present case, the instant 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

February 05, 2024
poonam

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