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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-57609-2024 (O&M)
Date of decision: 25.11.2024

Ajmer Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sunny K. Singla, Advocate and
Mr. Manpreet Bagga, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking regular bail in
case bearing FIR No.48 dated 05.07.2024 under Sections 80, 85, 3(5) of the
Bharatiya Nyaya Sanhita, 2023 (for short 'BNS'), registered at Police Station
Sandaaur, District Malerkotla.
2. The present FIR was registered on the basis of statement made by
brother of the victim, on the allegations that he is doing labour work and they



are two brothers and one sister, whose marriage was solemnized with Parminder Singh on 16.02.2020 and out of this wedlock, one daughter was born. After few days of the marriage, husband and father-in-law of his sister started harassing her for bringing less dowry and the matter was compromised for about 2-3 times in the panchayat. On 04.07.2024 at about 08.00 p.m., he received a phone call from the mobile number of father-in-law of his sister and upon which, her elder sister-in-law had a talk and said that his sister had raised dispute with them without any reason and from the backside, voice of loud screaming was coming. On 05.07.2024 at about 03.00/03.30 p.m., elder sister-in-law of his sister made a phone call to his mother and said that she should come and see her daughter, otherwise she would level the allegations on them. Thereafter, he along with his mama Amritpal Singh and other respectable persons went to in-laws' house of his sister and saw her dead body lying on the cot. On checking the same, they came to know that there are marks around her neck. The complainant had full confidence that father-in-law (petitioner), husband and sister-in-law (*nanad*) of his sister, respectively, put chunni around her neck and thereafter, hanged her with the fan and killed her.

3. Learned counsel for the petitioner, *inter alia*, contends that marriage between son of the petitioner and the deceased took place on 16.02.2020 and there was no allegation against the petitioner that he subjected the deceased to any cruelty on account of demand of dowry immediately



before her death, as such, necessary and factual ingredients breaching the threshold of offence under Section 80 of BNS [*erstwhile Section 304-B of the Indian Penal Code, 1860 (for short 'IPC')*] are clearly missing. There is nothing on record to suggest the common intentions with other accused, as provided under Section 3(5) of BNS (*erstwhile Section 34 of IPC*). Learned counsel for the petitioner relies upon disability certificate of the petitioner (Annexure P-2), which indicates that he is a physically disabled person and has suffered disability to the extent of 75%. The investigation of the case is complete and similarly situated co-accused has already been granted the concession of regular bail by this Court vide order dated 13.09.2024 (Annexure P-3) passed in CRM-M-44652-2024. The petitioner is behind bars since 06.07.2024 and he is not involved in any other case.

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that the deceased has died in suspicious circumstances in her matrimonial home within 07 years of marriage, as such, the petitioner being head of the family is liable to explain the circumstances, under which the deceased has died.

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 bars since 06.07.2024 and the trial of the case will take long time in its conclusion, as none out of 17 prosecution witnesses has been examined so

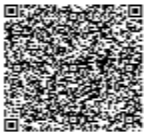


far. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

6. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“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, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Ajmer Singh is ordered to be released on regular bail



during trial on his furnishing bail/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned trial Court shall proceed without being prejudiced by the observations of this Court.

25.11.2024
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[HARPREET SINGH BRAR]
JUDGE

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