

CRM-M-62846-2023 -1-

284 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
CRM-M-62846-2023
Date of decision: 19th April, 2024

Sarabjit Singh @ Sarabjit Singh ...Petitioner(s)
Versus
State of Punjab ...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sagar Aggarwal, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
132	06.07.2022	Sadar, Tarn Taran	304-B of Indian Penal Code, 1860 (for short ‘IPC’)

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 06.07.2022 on the basis of statement recorded by the complainant Harjinder Singh alleging therein that his daughter Sukhwinder Kaur was got married with the present petitioner on 16.01.2021 according to sikh rites. A female child was born to her. He alleged that after the marriage of his daughter with the petitioner, her in-laws had started harassing her for dowry. They used to throw her out of her matrimonial house and it was due to the intervention of the Biradari panchayat that she was taken back in her nuptial home. He

alleged that the previously the matter was also reported to the police and the petitioner and his family members had taken his daughter back after asking for forgiveness. He further alleged that on 05.07.2022, at about 9:00 PM, he had received information from someone that the victim was being beaten up by her in-laws and on hearing so, he along with some other persons rushed to matrimonial house to her daughter. After pacifying his in-laws, they had returned back. He alleged that on the same evening, the petitioner called him on phone and asked him the reason for not taking his daughter along with him. On the same night, he received intimation about the condition of her daughter being critical and about her admission in some hospital at Tarn Taran. On reaching there, he found his daughter to be dead. He alleged that the petitioner in connivance with his family members had administered some poisonous substance to his daughter. A case under Section 304-B of IPC was registered. Investigation proceedings were initiated. The petitioner was arrested on 03.08.2022. Other persons named in the FIR were found to be innocent and had not been arrested and challaned. After completion of necessary investigation proceedings and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial. He had moved an application for grant of regular bail before the Court of Ld. ASJ, which was dismissed vide order dated 08.01.2023.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. The allegations in the FIR on the face of record do not make out any case for commission of offence punishable under Section

304-B of IPC as against the petitioner as there are only vague allegations about demand of dowry and neither the details of any specific demand nor any specific date, month or year of raising such demand has been mentioned in the FIR. Infact, the petitioner suspected the deceased of infidelity as she was found regularly talking with someone over her phone and later on it was revealed that she used to call one Harman Singh of village Mallah Wala. To cover up her own infidelity, the victim had lodged a false complaint at Police Station Women Tarn Taran against the petitioner and his family members. A Panchayati compromise had been effected between the parties on 24.03.2022, wherein the deceased had admitted the factum of talking to someone over the phone and an undertaking was also given by her to not to do so in future. It was also executed in writing that the petitioner would not be responsible, if she committed suicide because she had already made attempt to commit the same on being questioned about her making conversations with some male on phone.

4. It is further argued by learned counsel for the petitioner that after registration of FIR, an inquiry was conducted in the matter by Inspector Gurcharan Singh and as per the enquiry report (Annexure P-3), as submitted by him, it was not a case of demand of dowry but infidelity. It is further argued that the fact that the compromise Annexure P-2 was executed between the family members of the deceased as well as the family members of the petitioner was admitted by PW-1 i.e. complainant in his sworn deposition recorded before the Court and he had also admitted that one Pargat Singh member, Panchayat of native village of the victim had even

asked the complainant to kill the victim if she continued the same conduct. Learned counsel has argued that infact the victim was caught by the petitioner while talking with the abovesaid Harman Singh on 05.07.2022 and that is why the family members of the victim had been called by the petitioner to prevail good sense upon her but as they had not taken her along with them and the above said Pargat Singh had even asked the complainant to kill her, therefore, feeling disturbed, the victim had killed herself by consuming celphas. It is argued that it is a case of suicide and not of dowry death. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. There are no chances of petitioner's intimidating the material witnesses, as the most material witness already stand examined. With these broad submissions, it is argued that he deserves to be given concession of bail.

5. Status report has been filed by respondent-State. It is argued by learned State counsel that there are serious and specific allegations against the petitioner. The trial might be expedited. The period of incarceration cannot be made a ground for extending benefit of bail to accused of a heinous crime. The victim had died within a period of seven years of her marriage with the petitioner and hence, it was presumed to be a case of dowry death. With these broad submissions, it is argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the material placed on record carefully.

7. Admittedly, the marriage between the petitioner and the victim Sukhwinder Kaur had been performed on 15.01.2021 and she died on 05.07.2022 i.e. within one and half years of her marriage. Her death is proved to have taken place due to consumption of some poisonous substance. According to the complainant, the victim had committed suicide due to the reason that she was being harassed by the petitioner and his family members on account of demand of dowry and had been subjected to cruelty whereas, according to the petitioner, he suspected her fidelity as she was found talking with some other person named as Harman Singh on phone and this was a cause of quarrel between them.

8. It has also come on record that Panchayat meetings had been convened between the parties to get their dispute settled. Learned counsel for the petitioner has drawn the attention of this Court to the statement of PW-1 i.e. complainant (Annexure P-5) as recorded before the trial Court wherein he is shown to have admitted that on 05.07.2022, he along with one Pargat Singh and some other persons had gone to the matrimonial house of his daughter for effecting a compromise. It is also shown to be admitted by him that the said Pargat Singh had conveyed during the panchayat meeting that the complainant should kill the petitioner and they would take her dead body if she continued talking to Harman Singh. It is also shown to be admitted by him that compromise Annexure D/A was executed and signed by himself, his deceased daughter and other respectable members of his village as well as village of the petitioner. A perusal of contents of Annexure P-2, which was produced before the learned trial Court reveals that in the

abovesaid compromise, it was also recorded that victim used to make calls to some other person and she had accepted her mistake before the Panchayat and had apologized and assured to not to do so and it was agreed that if she was found calling the said person again, then she would be given divorce by the petitioner. Keeping in view the admission of the complainant, the veracity of Annexure P-2 cannot be doubted and it also shows that the relation between the petitioner and victim were strained due to her making calls to someone else and obviously, he suspected her fidelity.

9. So far as, the allegations of subjecting the victim to any cruelty on account of demand of dowry is concerned, in the FIR there is only a casual reference of the same to the effect that the in-laws of the victim started harassing and beating her for dowry. However, the entire FIR has remained silent on the point as to what was demanded in dowry and by which particular member of the family of the in-laws of the victim and at which particular time. Even in her sworn statement Annexure P-5, the complainant is shown to have simply alleged that the in-laws of his daughter started harassing her for more dowry articles without specifying as to what was demanded and by whom? As such the question that it was a case of dowry death is itself debatable. The Court while considering the plea of the petitioner for bail cannot consider this question as it is not defeasible or appropriate to do so, however, still keeping in view the fact that no specific allegations qua demand of any particular item of dowry by any particular member of family of the petitioner or by the petitioner are alleged to have been raised either in the FIR or in the sworn testimony of the petitioner,

coupled with the fact that the complainant himself has admitted signing of panchayati compromise Annexure P-2 itself which speaks volume about the fact that the dispute between the deceased and petitioner was with regard to her keeping contact on phone with some other person and the petitioner suspecting her fidelity due to that reason and the attendant facts and circumstances of the case, but without meaning to make any comments on the merits thereof, I am of the considered opinion that the petition deserves to be allowed. Hence, the petition is allowed, the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

10. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

11. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

19th April, 2024
Parveen Sharma

1. Whether speaking/ reasoned	:	Yes
2. Whether reportable	:	Yes