

CRM-M-63728-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

219

CRM-M-63728-2023

Date of decision:31.01.2024

Gindo

...Petitioner

V/s

The State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Abhimanyu Singh, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Hayana.

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.525 dated 05.09.2022, registered for the offences punishable under Sections 304-B, 498-A and 34 (deleted later on) IPC at Police Station Tosham, District Bhiwani.

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

Sir brief facts of the case are that on 05.09.2022 Bijender son of Om Prakash resident of Village Pali District Hisar came present to Police Station and got recorded one complaint to the effect that "To, Superintendent of Police, Bhiwani, subject: complaint for taking legal action against 1. Mohan @ Monu son of Zile Singh 2. Gindo wife of Zile Singh 3. Kela daughter of Zile Singh 4. Vidha daughter of Zile Singh 5. Vinod son of Zile Singh all residents of Sidhan Tehsil Tosham District Bhiwani after hatching conspiracy with each other in the name of demanding dowry they have committed murder. Sir applicant submits as under:- 1. That I am Bijender son of Om Prakash aged about 54 years caste Nayak resident of Pali Tehsil Narnaud District Hisar and is doing labourer work. 2. That we are 4 brothers and 3 sisters my youngest sister Pooja was married with accused NO.1 according to Hindu rites and ceremony on 20.06.2019 at Village Sidhan. My parents and we all brother

had given dowry more than our status and around Rs.7 lakhs were being spend in the marriage. The copy of the list of dowry articles annexed with the instant complaint. 3. That since the dowry greedy person were not happy with dowry articles and they used to taunt my sister neither you have brought motorcycle in the marriage nor you have brought gold earrings and also you did not bring in the marriage jewellery item for my daughters. 4. That after the marriage of my sister Pooja they started harassing and humiliated her and started demanding more dowry and also use to beat her and my sister used to tell us about this maltreatment and we used to make her understand and used to send her back to matrimonial house and assure her that good sense will prevail upon them. 5. That on 23.08.2022 I have received one mobile call from Village Sidhan and he said I am Sarpanch of the Village namely Jai Prakash and your sister had committed suicide after hearing this after arranging vehicle reached village Sidhan then we saw that my sister Pooja was lying on the cot in dead condition and cloth was there on her body we saw that there is one injury on the neck just below the chin which is blue colour thereafter we called at number 112 our call was not being picked by them thereafter we called at Police Station Tosham and called the police. Since all these dowry greedy people have murdered my sister. Kindly take strict legal action against them and till today no action has been taken by the Police and thereafter on 24.08.2022 postmortem of my sister's dead body has been conducted. The copy of the same is also affixed with the instant complaint. 6. That after the postmortem of my sister has been taken to cremation ground for performing last rites and while performing last rites above said accused persons namely Mohan has told my younger brother Sombir that your sister has been murdered by us and now we have performed her last rites also and now you cannot do anything against us because is obeying Sarpanch of our Village and police used to do whatever sarpanch tell them to do. Therefore, applicant and the family members of the applicant are submitting with folded hand that kindly take strict to strict legal action against the accused persons for murdering my sister Pooja and we would be highly obliged. From the contents of complaint offence under Sections 304-B, 498-A, 34 of IPC has been made out and accordingly FIR got registered.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 14.09.2023 whereinafter challan has been presented and trial

is underway. It is further argued that the during the course of trial, an application under Section 319 of Cr.P.C. has been filed for summoning of four additional accused namely Mohan @ Monu (husband), Kela (Nanad), Vidya (Nanad) and Vinod (Devar) and the same is pending adjudication before the learned trial Court. Learned counsel has further argued that the death in question took place on 23.08.2022 whereinafter on 24.08.2022 an application (copy whereof has been appended as Annexure P-2 with the present petition) was moved by father of the deceased before SHO, Tosham, District Bhiwani stating therein that he (father of the deceased) did not want to initiate any legal action against anyone. Learned counsel has further argued that no offence under Section 304-B IPC can possibly be not made out against the petitioner (herein) as there is no material to invoke the presumption under Section 113 of the Indian Evidence Act. 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 is a lady aged about 68 years. The petitioner was arrested on 14.09.2023 whereafter investigation was carried out and challan was presented on 30.05.2023. As per custody certificate dated 30.01.2024 filed by learned State counsel, the petitioner has already suffered

incarceration for a period of more than 04 months & is not shown to be involvement in any other case. The rival contention of learned counsel for the parties, as to whether the offence of 304-B IPC is attracted in the facts and circumstances of the case, 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. Further, no perceptible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of law or interfering with the prosecution evidence. In considered opinion of this Court, keeping in view the facts and circumstances of the case especially that the petitioner is a lady aged about 68 years, her further detention 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 her 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 herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cellphone number to the Investigating Officer/SHO of concerned Police

Station and shall not change her cell-phone number without prior permission of the trial Court/Illaqa 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 31, 2024
Ajay

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