

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-65442-2023 (O&M)
Date of order: 10.01.2024

Mukesh Kumar

.....Petitioner(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Suneet Kumar, Advocate
for the petitioner.

Ms. Deep Shikha Chauhan, AAG Haryana.

Nidhi Gupta, J.

Present is the secondpetition filed by the petitioner under Section 439 of Code of Criminal Procedure (hereinafter referred to as “Cr.P.C.”) seeking grant of regular bail in case FIR No.376 dated 24.06.2021(Annexure P1) registered under Sections 306 and 304-B of Indian Penal Code, 1860 (hereinafter referred to as “IPC”) at Police Station Indri, District Karnal (earlier FIR was registered under Section 306 IPC but later on Section 304B IPC was added in the challan.)

2. FIR in the present case was registered on the basis of statement of the mother of the victim and the same reads as under:-

“....that I am the resident of the above mentioned address and employed on Govt. job as Anganwadi Assistant. I have two sons and two daughters. Out of which Rekha aged 19 years is the youngest one who got married with Mukesh Kumar son of Sh. Lakhan Ram, r/o Manakpur, police Station Bhawan, Distt. Shamli, Uttar Pradesh on 25th November 2020. My daughter

Rekha was living on rent with his husband Mukesh Kumar at KillaMohalla, Ward no 5, Indri from 15.6.2021. Today I got one phone call on my mobile from my daughter Rekha at around 9.45 a.m., who told me that my son in law Mukesh Kumar is demanding a sum of Rs.5 lacs for purchasing plot. My daughter Rekha told me that my son in law Mukesh Kumar is in relationship with one girl namely Jyoti. Mukesh Kumar had out his Sim in the mobile of Jyoti, when my daughter made a call to Mukesh Kumar then Jyoti picked up the phone and started talking rudely with my daughter. We came to know that Mukesh Kumar is in illicit relationship with the said girl Jyoti for many days. Because of this, my daughter used to remain tense. My son in law told my daughter Rekha that he will remove the teacher ship of her mother. He was talking with my daughter rudely and used to say that he will make my daughter to forget her Risalgarh. My son in law and daughter were residing on rented accommodation at Indri for last one week. We got one intimation from Police Station Indri at 5.00 p.m that my daughter had ended her life by hanging herself and asked us to come to Police Station urgently. Therefore, on getting the intimation I along with my family members reached at Police Station Indri and there we came to know that dead body of my daughter had been sent to Dead House Karnal. We have suspicion that my daughter Rekha ended her life by hanging herself after being fed up of the demand of Rs.5 class (sic) of her husband Mukesh Kumar and illicit relationship of her husband Mukesh Kumar with Jyoti. The reason for the death of my daughter Rekha be found and strict action be taken against Mukesh Kumar..."

3. It is inter alia submitted by learned counsel for the petitioner that the petitioner was married to the deceased on 25.11.2020.

No child was born out of this wedlock.

4. Learned counsel contends that the allegations made by the complainant in the FIR against the petitioner to the effect that the petitioner was having an illicit affair with one Jyoti, are utterly false and fabricated. It is submitted that this is evident from the fact that even the application filed by the complainant under Section 319 Cr.P.C. for summoning the said Jyoti as an additional accused in the present case, has been dismissed by the learned trial Court.

5. Learned counsel submits that it has been further alleged in the FIR (Annexure P1), as also in the testimony of the complainant/PW4 (Annexure P3) that the said Jyoti was residing with the petitioner in rented accommodation where he was residing. However, the said allegations are falsified by the statement of the landlady made under Section 161 Cr.P.C. (Annexure P2), wherein she categorically stated that the deceased had resided with the petitioner in the said premises and that there was no quarrel between them. It is further submitted that for the reasons totally unknown to the petitioner, the deceased committed suicide on 23.06.2021, whereafter present FIR was registered by mother of the deceased, after a delay of one day i.e. on 24.06.2021. It is stated that even no suicide note has been recovered. As such, there is nothing incriminating against the petitioner. It is further submitted that the petitioner is in custody since 28.06.2021; and therefore, prays that the petitioner be released on bail.

6. Notice of motion.

7. Ms. Deep Shikha Chauhan, AAG Haryana, accepts notice on behalf of respondent-State and files custody certificate dated 09.01.2024 which is taken on record. Learned State Counsel vehemently

opposes the prayer for grant of regular bail to the petitioner and submits that the incident has occurred within a few months of the marriage, and that as per the the post-mortem report, cause of death is “asphyxia due to hanging”. Learned counsel argues that the complainant in her testimony as PW4 (Annexure P3) has supported the prosecution case wherein she has reiterated the serious allegations made against the petitioner. It is contended that accordingly, the dismissal of the application filed by the complainant under Section 319 Cr.P.C., has no bearing on the present case. Learned counsel further argues that no doubt landlady has been summoned as a prosecution witness, however, she has not yet been examined and therefore, her statement under Section 161 Cr.P.C. cannot be given much weightage. It is further submitted that out of 17 prosecution witnesses, 4 have been examined so far.

8. I have heard learned counsel for the parties.

9. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the case including the fact that perusal of custody certificate reveals that there are no other cases against the petitioner; as also the period of custody undergone; and the fact that conclusion of the trial will take long time as only 4 out of 17 prosecution witnesses have been examined so far; and therefore, no useful purpose would be served by keeping the petitioner behind bars, present petition is **allowed**. Petitioner namely Mukesh Kumar s/o Ram Lakhan @ Lakhan is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

10. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

11. Pending application(s) if any also stand(s) disposed of.

10.01.2024
Sunena

(Nidhi Gupta)
Judge

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