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CRM-M-35278-2024
Decided on: 19.05.2025

Dharambir

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Arav Gupta, Advocate and
Mr. D.S. Matya, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0285	23.07.2023	Sector-65, Gurugram	302 IPC

1. The petitioner incarcerated in the FIR captioned above came before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 23 of the bail petition, the petitioner declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That the facts leading to the registration of the FIR aforementioned are that on 17.07.2023, an information was received from Karamchand to the effect that Dharamvir (Petitioner herein) had picked up a quarrel with Sita and subjected her to beatings and then had burnt her alive by pouring some inflammable substances. Further, the complainant and his mother were informed by Sita that first the petitioner had given her beatings and then after pouring flammable oil, set her ablaze.

4. That upon receipt of the information from Group Center, Kadarapur Gurugram, the police party reached the place of occurrence from where they came to know that Dharamvir (petitioner herein) and his wife Sita had been admitted to Park Hospital Sector 47, Gurugram for treatment.

The scene of crime was locked to preserve the evidence. On reaching the said hospital, the MLC of Sita was obtained and the opinion of the Medical Officer was sought vide which the doctor declared her unfit to make statement. The burnt clothes of the victims were taken into Police possession. The copy of MLC report is being appended to along with the present affidavit for the kind perusal of this Hon'ble Court as Annexure R-1.

5. That on 19.07.2023, the victim was admitted to AIIMS, Delhi. The investigator went there for recording statement of victim Sita, however, the Doctor declared the victim Sita unfit for making a statement. Further, the scene of crime was inspected by scene of crime team and a bottle containing inflammable substance alongwith the burnt clothes were possession. taken in to the Police possession.

6. That on 23.07.2023, an information was received that the victim Sita had succumbed to the burn injuries during the course of her treatment. Thereafter, her Post-Mortem examination subsequently was got conducted written application and was a moved by the complainant alleging therein that petitioner used to beat his sister and he used to mentally harass her and that later he had tried to burn her alive. Legal action was sought and on the basis of these allegations FIR aforementioned was registered and investigation was taken up in the legal manner. The post-mortem examination report is being appended to along with the present affidavit for the kind perusal of this Hon'ble Court as Annexure R-2.”

4. The petitioner's counsel submits that burn injuries were due to gas leakage at home and even he was injured in the said incident. He further prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

“That as per the investigation, the petitioner, who is the husband of the deceased, had assaulted the deceased and thereafter, the deceased had been set ablaze by him by pouring inflammable substance. The prosecution witnesses are yet to be recorded in the case. In the event of being granted the concession of bail, the petitioner may very well pressurize the witnesses and dissuade them from deposing the truth during the course of the trial. The testimony of the complainant Karam Chand

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had been recorded during the course of the trial and he has duly supported the version given by the prosecution. The deceased had been done to death in a gruesome manner and she had suffered 95% burn injuries on her person.”

REASONING:

7. As per the statement of PW5-Karam Chand-Complainant recorded before the trial Court on 28.05.2024 reflect that her sister narrated entire incident to him on 18.07.2023, however she was unfit to make statement till 19.07.2023 as per para 5 of the reply. As per the report of FSL, Madhuban, Karnal, no substance i.e. inflammable material, was found on Ex.1a, 1b, 3 & 4 which falsify the story of the prosecution. Similarly Annexure P-2 reflects burn injuries on the person of petitioner also. Victim and petitioner are husband and wife and burn injury may be due to some other reason also. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing.
8. Per paragraph 21 of the bail petition, the petitioner has been in custody since 28.09.2023 and accordingly his custody is approximately 01 year & 07 months.
9. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.
10. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.
11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
12. While furnishing a personal bond, the petitioner shall mention the following personal identification details:
- | | | |
|----|--|--|
| 1. | AADHAR number | |
| 2. | Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk. | |
| 3. | Mobile number (If available) | |
| 4. | E-Mail id (If available) | |
13. This order is subject to the petitioner’s complying with the following terms.

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14. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

15. It is clarified that if the petitioner violates any bail condition, the State and/or the victim may file an application for bail cancellation before the trial court, which shall be competent to cancel the bail or add more conditions. Furthermore, if the petitioner moves for deletion or dilution of any bail conditions, the trial court is empowered to do so.

16. **This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall have the liberty to cancel this bail.**

17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

19.05.2025

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Whether speaking/reasoned: Yes
Whether reportable: No.