

CRM-M-49605-2024(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-M-49605-2024(O&M)
Decided on: 22.01.2025

Ajay Kumar

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Aditya Sanghi, Advocate,
Mr. Himanshu Garg, Advocate and
Mr. Pradeep Bhardwaj, Advocate
for the petitioner(s).

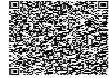
Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

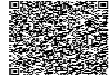
The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.254 dated 07.06.2023, under Sections 304-B/34 IPC and in alternate charges under Section 302/34B of IPC, registered at Police Station Sadar Sirsa, District Sirsa, Haryana.

2. The contents of the above-mentioned FIR are reproduced herein below:-

“Statement of Partap son of Dalsukh Resident of Village Dukda, aged 60 years, Mobile 94679-57431 stated that I am doing Agriculture work. I have three daughters and one son, all my children are married. Marriage of my youngest daughter Anita was solemnized with Ajay Kumar: son of Rameshwar Dass Resident of Madhosidhana on dated 21.06.2021, that out of this wedlock one son whose age is 11 months. That me and my family had given dowry in the marriage of my daughter Anita by going beyond our capacity. That my Son-in-law and his family started causing harassment to my daughter Anita



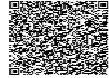
after the marriage itself for dowry. That father of Ajay Kumar namely Rameshwar Dass, mother of Ajay Kumar namely Guddi Devi residents of Madhosidhana, sisters of Ajay Kumar namely Shobha wife of Devilal and Rakha wife of Nathuram residents of Mehna all of them Kheda Police Station Ellenabad both of them used to stay at their maternal home, all of them used to taunt my daughter Anita for brining less dowry. And used to assault my daughter and cause disturbance and harassment. That in this regard my daughter Anita told me and my wife Pisto Devi, that my wife asked my daughter to settle her home. that around two and half months back my Son-in-law Ajay Kumar his mother Guddi Devi and sisters Shobha and Rekha assaulted my, daughter Anita and had oust her out of the house for brining dowry, that my daughter stayed with us at Village Dukda for around one month. Then upon convening of Panchayat I sent my daughter Anita to her in-laws village Madhosidhana along with the relatives came along with the Panchayat. That on dated 27.05.2023 during night time at around 11.00 hrs I received phone call of Jaipal who is real maternal Uncle of Ajay Kumar from his Mobile Number 99832-74480 upon my mobile Number 94679-57431 that Anita has consumed spray. That you may come to Swastik Hospital Sirsa. That since the time was odd so I couldn't come at night and on the next day in the morning I went to Swastik Hospital where my daughter Anita was admitted and her treatment was going in, that today till date my daughter Anita was undergoing treatment and today since health of my daughter got deteriorated so she was referred to Punia Hospital Sirsa, where her death has taken place during undergoing treatment. That upon not fulfilling dowry demands my Son-in-law Ajay Kumar, Rameshwar Dass, Mother-in-law Guddi Devi and sisters-in-law Shobha and Rekha have killed my daughter Anita by making her to consume spray, that legal action may be initiated against all of them. I have recorded my statement and heard. Sa/- PRATAP ATTESTED SANDEEP ASI PE MALLEKAN DATE 07-05-2023.



On dated 27.05.2023 a RUQA was received in MHC Police Station in Police post that victim Anita wife of Ajay Kumar R/o Madhosidhana is admitted in Swastik Hospital due to consuming poisonous substance, initiate proceedings. That since the time was odd, so statement cannot be recorded. On dated 28.05.2023 ASI Kishori Lal reached Swastik Hospital Sirsa and submitted an application regarding opinion of the Doctor regarding victim, that the Doctor declared victim not fit for statement. That the Doctor continuously declared the victim unfit for statement till dated 06.06.2023, that today on dated 07.06.2023 a telephone was received in Police post from MHC Police Station that victim Anita has died at Punia Hospital during undergoing treatment. Proceedings may be initiated. Whereby myself ASI along with ASI Kishori Lal No. 629 boarding private vehicle reached Punia Hospital Sirsa. Where near the Gate father of deceased Anita namely Partap Singh has found present. His statement was recorded. Statement was obtained and was recorded word by word, who upon hearing the statement and accepting the same as correct appended his signatures underneath the statement in Hindi. Which has been attested by myself ASI. That keeping in view of contents of the statement prime facie a case is made out under section 304B/34 IPC, so statement for registration of case is being sent by hand through ASI Kishori Lal No. 629 1751 to Police Station, After registration of case, number of the FIR may be informed and Special report of the present case may be sent for the kind perusal of senior officers. That myself ASI am busying in proceedings under section 174 Cr/P.C. That further investigation of the case was conducted by ASI Sandeep Singh 941 Incharge Police post Malleka. XXXX"

3. Learned counsel for the petitioner, *inter alia*, submits that petitioner is a simple person and never harassed the deceased at any point of time rather as a matter of fact neither there was any complaint nor any MLR

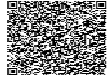
on any suicide note left by the deceased at the time of suicide, which is



clearly indicate the fact that there was no such harassment as disclosed in the FIR rather as a matter of fact after the moment of consumption of poison by the deceased she was taken to hospital by the petitioner family and throughout the whole expenses as well as the deceased was well taken care by the petitioner family and during this time period neither any such complaint for 10 days was made by the complainant regarding harassment and demand of dowry to the police. The present FIR has been got registered after thought full process and the same is a result of afterthought.

3.1. He further submits that during the course of investigation, the police had exonerated the sister(s)-in-law Shobha and Rekha; the co-accused, namely, Kamla Devi has been granted concession of regular bail by the Co-ordinate Bench of this Court vide order dated 27.08.2024 passed in CRM-M-8030-2024 (Annexure P-6) and co-accused Rameshwar has been granted concession of regular bail by the learned Trial Court vide order dated 09.09.2024 (Annexure P-7) passed by learned Additional Sessions Judge, Sirsa. The petitioner has clean antecedents and he is in custody since 01 year, 07 months and 11 days.

4. *Per contra* learned State counsel submits that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 01 year, 07 months and 11 days. He on instructions from SHO Sandeep Kumar-investigating officer submits that charges were framed on 04.10.2023 and out of total of 22 prosecution witnesses, none have been examined and one has given up. There is no other case registered against the petitioner. He, however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.



5. Heard the rival submissions made by learned counsel for the parties.

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 11.06.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 22 prosecution witnesses, none has been examined so far. The co-accused Kamla Devi and Rameshwar have already been granted concession of regular bail and it is also on record that after the consumption of poison by the deceased, the petitioner had taken the deceased to the hospital and had borne all expenses. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violate of his rights under Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in ***“Dataram Singh vs. State of Uttar Pradesh and another”*, (2018) 3 SCC 22.**

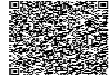
7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

(I) The petitioner will not tamper with the evidence during the trial.

(II) The petitioner will not pressurize/intimidate the prosecution witness(s).

(III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.

(IV) The petitioner shall not commit an offence similar to the



offence of which he is accused of, or for commission of which he is suspected.

(V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

9. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

10. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

22.01.2025

Kapil

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>