

Law Today Live Doc. Id. 15569

PUNJAB AND HARYANA HIGH COURT

Before: Hari Pal Verma, J.

CRM-M-50035-2019(O&M)

Decided on: 27.10.2020

Sandeep Kumar @ Sandeep

Petitioner

Versus

State of Haryana

Respondent

Present:

Mr. Ravinder Malik (Ravi), Advocate, for the petitioner.

Mr. Pardeep Parkash Chahar, D.A.G., Haryana.

Indian Penal Code, 1860 (45 of 1860), Section 304-B, 34 -- Code of Criminal Procedure, 1973 (2 of 1974), Section 319, 439 -- Dowry death case -- Regular bail -- Petitioner/ husband in custody for about two years - - As against total 21 witnesses only 01 witness has been examined so far -- Moreover, the prosecution has moved an application u/s 319 Cr.P.C., so as to summon sister-in-law and brother-in-law of the deceased -- In this manner, trial is not likely to be concluded in the near future as the application filed u/s 319 Cr.P.C., is pending consideration before the trial court -- Court deemed it appropriate to admit the petitioner on bail.

(Para 10)

Cases referred:

1. Om Parkash Versus State of Haryana, CRM-M-20366-2019 dated 09.05.2019.

HARI PAL VERMA, J. (ORAL) –

1. The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

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2. Prayer in this application filed under Section 482 Cr.P.C. is for placing on record documents, Annexures P-3 to P-9.

3. Application is allowed, as prayed for and the documents, Annexures P-3 to P-9 are permitted to be taken on record.

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4. Prayer in this 2nd petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.446 dated 20.11.2018 under Sections 304-B, 34 IPC, registered at Police Station Naraingarh, District Ambala.

5. The earlier petition i.e. CRM-M-30293-2019 filed by the petitioner was dismissed by this Court vide order dated 16.08.2019.

6. Petitioner is husband who was married with the deceased in December, 2016. The deceased-wife has died on 20.11.2018. The allegation against the petitioner is that the deceased was taunted for bringing less dowry. About six

months before her death, the accused demanded Rs.1 lakh and for not giving the same, she was turned out of the house. Then the complainant gave Rs.50,000/- and thereafter, the Panchayat left the deceased at her in-laws house. Thereafter, again there was a demand for a car and on her refusal to satisfy their demand, she was given beatings.

7. Learned counsel for the petitioner has argued that co-accused Om Parkash has been granted bail by this Court vide order **dated 09.05.2019** passed in **CRM-M-20366-2019(Om Parkash Versus State of Haryana)**. Petitioner is in custody since 21.11.2018. He submits that trial in the case is not likely to be concluded in the near future. Moreover, COVID-19 pandemic has further dissuaded the chances of early trial. He further submits that as against total 21 witnesses cited by the prosecution, 01 witness has been examined in the case. Further, the prosecution has moved an application under Section 319 Cr.P.C., so as to summon sister-in-law and brother-in-law of the deceased(sister and brother of the present petitioner), which is pending consideration before the trial court.

8. Learned State Counsel has argued that the deceased was married with the petitioner in December, 2016 and she died on 20.11.2018. As per post-mortem report, cause of death is Asphyxia due to hanging, which is anti-mortem in nature and is sufficient to cause death in ordinary course of nature. He submits that the accused cannot be treated at par with co-accused Om Parkash.

9. Heard learned counsel for the parties.

10. Petitioner is husband of the deceased. He is in custody since 21.11.2018 (i.e. about two years). As against total 21 witnesses cited by the prosecution, only 01 witness has been examined so far. Moreover, the prosecution has moved an application under Section 319 Cr.P.C., so as to summon sister-in-law and brother-in-law of the deceased(i.e. Nanad and Dewar of the deceased). In this manner, trial is not likely to be concluded in the near future as the application filed under Section 319 Cr.P.C., is pending consideration before the trial court. Thus, this Court deems it appropriate to admit the petitioner on bail.

11. Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

12. However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

Petition allowed.
