

(2014) 07 P&H CK 0241

High Court Of Punjab And Haryana At Chandigarh

Case No: CRM Nos. M-21793 and M-22560 of 2014

Bhagirathi

APPELLANT

Vs

The State of Haryana

RESPONDENT

Date of Decision: July 18, 2014

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 438(2)
- Dowry Prohibition Act, 1961 - Section 3, 4
- Penal Code, 1860 (IPC) - Section 120-B, 304-B, 34, 498-A

Hon'ble Judges: Mehinder Singh Sullar, J

Bench: Single Bench

Advocate: Mukul Aggarwal and Saurabh Arora, Advocate for the Appellant; Rajat Mor, DAG, Advocate for the Respondent

Judgement

Mehinder Singh Sullar, J.

As the identical points for consideration to grant the concession of anticipatory bail or otherwise to petitioners are involved, therefore, I propose to decide the above indicated petitions i.e. CRM No. M-21793 of 2014 titled as "Bhagirathi Vs. The State of Haryana" (for brevity "the 1st petition") and CRM No. M-22560 of 2014 titled as "Shambhu Prasad Vs. State of Haryana" (for short "2nd petition"), arising out of the same case/FIR, vide this common order to avoid the repetition of facts.

2. The petitioners (parents-in-law of deceased) have preferred the instant separate petitions for the grant of concession of anticipatory bail, in a case registered against them along with their son and main co-accused Varinder Parkash (husband), by virtue of FIR No. 600 dated 5.6.2014 (Annexure P1), on accusation of having committed the offences punishable under Sections 498-A, 304-B, 120-B read with section 34 IPC and Sections 3 and 4 of The Dowry Prohibition Act, by the police of Police Station City, Gurgaon.

3. Notices of the petitions were issued to the State.

4. After hearing the learned counsel for the parties, going through the record with their valuable help and after deep consideration over the entire matter, to my mind, the present petitions for anticipatory bail deserve to be accepted in this context.

5. During the course of preliminary hearing, the following order was passed by this Court in 1st petition on 3.7.2014:-

Learned counsel, inter alia, contended that even as per the prosecution version contained in the FIR, petitioner, who is mother-in-law of the deceased, was residing separately for the last 4-5 months, prior to the present occurrence. The argument is that, in that eventuality, the question of cruelty in connection with and on account of demand of dowry from the deceased by the petitioner, soon before her death becomes very doubtful. Moreover, very vague and general allegations are stated to have been assigned to, and in the absence of any overt-act, indicated offences are not made out against the petitioner.

Heard.

Notice of motion be issued to the respondent, returnable for 18.07.2014.

Meanwhile, the petitioner is directed to join the investigation before the next date of hearing. In the event of her arrest, the Arresting Officer would admit her to bail on her furnishing adequate bail and surety bonds in the sum of Rs. 25,000/- to his satisfaction.

6. Sequelly, similar order was passed by a Coordinate Bench of this Court (T.P.S. Mann, J.) in 2nd petition on 9.7.2014 as well.

7. At the very outset, the learned State counsel, on instructions from ASI Sanjeev Kumar, has acknowledged the relevant factual matrix and stated that the petitioners have already joined the investigation and they are no longer required for further interrogation at this stage. All the main allegations of cruelty in connection with and on account of demand of dowry are assigned to main accused Varinder Parkash (husband of deceased). There is no history of previous involvement of petitioners in any other criminal case. Even, since the prosecution has not yet submitted the final police report (challan), so, the final conclusion of the trial will naturally take a long time.

8. In the light of aforesaid reasons, taking into consideration the totality of the facts & circumstances, emanating from the record, as discussed here-in-before and without commenting further anything on merits lest it may prejudice the case of either side during the course of trial of main case, the instant petitions are hereby accepted and the interim (provisional) bail already granted to the petitioners, by way of indicated orders dated 3.7.2014 (in 1st petition) and 9.7.2014 (in 2nd petition) are hereby made absolute, subject to compliance of conditions as envisaged u/s 438(2) Cr.PC.

9. Needless to mention that nothing observed here-in-above would reflect on the merits of the main case, in any manner, as the same has been so recorded for the limited purpose of deciding the present petitions for anticipatory bail only. At the same time, in case, the petitioners do not cooperate or join the investigation, the prosecution would be at liberty to move an application for cancellation of their bail, in this relevant behalf.