

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-M-51842-2024(O&M)
Decided on: 21.01.2025

Shishupal @ Shiv Kumar

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Prateek Singh, Advocate
for the petitioner(s).

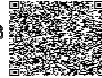
Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.369 dated 11.09.2023, under Sections 304B and 34 IPC, registered at Police Station Khedki Daula, District Gurugram.

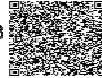
2. The contents of the above-mentioned FIR are reproduced herein below:-

“To Mr. SHO Sahib Thana Khedki Daula Gurugram Sir, I request that I am Devender Bind S/O Shri Rameshwar Bind resident of village Mehtaraon Post Bhathar Thana Tharthari District Nalanda (Bihar) and live with my family in village Nava village Hindoli Thana Hindoli District Surat Gujarat. I did not have any children, so in the year 2006 I adopted Sharifa Kumari, daughter of my brother-in-law Lakhan Bind S/O Tarakeshwar Bind resident of village Rasaud Thana Velaganj District Gaya (Bihar). I married her on 23.06.2023 according to customs with Shishupal S/O Shivjamadar resident of village Rasalpur Thana Noorsarai District Najanda Bihar. After marriage, my son-in-law brought my daughter to village



Kankarola, Thana Khidki Daul, District Gurugram, Haryana, for work with his parents and family and for about two months my daughter was living in village Kankarola with her in-laws. At the time of marriage, I had agreed to give four lakh rupees to the boy's side. At the time of marriage, I gave three lakh twenty thousand rupees as per the dowry condition of my daughter. At the time of marriage, we had agreed in front of Arvind Bind to give four lakh rupees to both the parties, who lives in Surat, Gujarat, 80 thousand rupees were due to the groom's side, to get which my daughter Sharifa Kumari was repeatedly tortured by my daughter's father-in-law Shiv Jamadar, son-in-law Shishupal and my daughter's mother-in-law Jarani Devi by pressurizing her to ask for the remaining money, due to which my daughter hanged herself and ended her life on 8/9/2023. Legal action should be taken against my daughter's husband Shishupal, mother-in-law Jarani Devi and father-in-law Shiv Jamadar and I should get justice. Thank you SD/- Devendra Kumar Applicant Devendra Bind s/o Shri Rameshwar Bind Mobile No. 7600630:93 Dated 11-09-2023 Police action on 8/9/2023 Father in law of deceased Shiv Jamadar S/O late Rajendra Prasad resident of village Rasalpur police station Noorsarai district Nalanda (Bihar) was found present near the dead body who told that I have informed my son Shishupal and my daughter Sharifa Kumari's parents who live in Suraj Gujarat. On their arrival statement will be recorded about the dead body. the deceased and the dead body of the deceased was kept in GH MORCHR Murugram after arranging for PRIVATE AMBULANCE. LCT Pragati was left to supervise the disposal of the body. Today on 11/9/2023 father of the deceased Devendra Bind S/O Rameshwar village Nehtrawa police station Tharthari district Nalanda (Bihar) came to the police station and presented a written application to the SI about the death of his daughter Sharifa Kumari which from the gist of the application was found to be the crime under section 304 B. 34 IPC.”

3. Learned counsel for the petitioner, inter alia, submits that

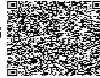


petitioner has been falsely implicated in this case. There is no suicide note or any previous complaint to substantiate the allegations levelled against the petitioner. The material witnesses have been examined. He further placed reliance upon the statement of the complainant (Annexure P-2) which shows that complainant has turned hostile. The petitioner has clean antecedents and he has undergone an actual custody of 01 year, 04 months and 06 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, 04 months and 06 days. He on instructions from investigating officer submits that charges were framed on 12.01.2024 and out of total of 18 prosecution witnesses, 04 have been examined. There is no other case registered against the petitioner. Learned State counsel has not disputed the fact that complainant had turned hostile. 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. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. The charges were framed on 12.01.2024. Out of total of 18 prosecution witnesses, 04 have been examined till date. The petitioner has undergone actual custody of 01 year, 04 months and 06 days. The complainant has turned hostile. Further detention of the petitioner will not serve any useful purpose and will be violation of 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

21.01.2025

Kapil

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No