

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.969 OF 2009

(Arising out of SLP(Crl.)No.7544 of 2008)

Bakshish Ram & Anr.

..... Appellants

Versus

State of Punjab

.....Respondent

ORDER

- 1) Leave granted.
- 2) This appeal arises out of the judgment and order passed by the High Court of Punjab and Haryana in Criminal Appeal No. 487 – SB of 1994 dated 26th day of March, 2008, wherein and where under, the court has confirmed the judgment and order passed by the learned Sessions Judge, Jalandhar dated 21.9.1994, sentencing the appellants Bakshish Ram and Dalip Kaur to undergo rigorous imprisonment for seven years each for the offences under Section 304-B read with Section 498-A IPC. The appellants have also filed separate applications for grant of bail during the pendency of the appeal.
- 3) A case was registered against the petitioners, viz., husband, mother-in-law and father-in-law of the deceased under Section 304-B and Section

498-A of Indian Penal Code on 7.7.1993. The Learned Additional Session Judge, Jalandhar after appreciating the evidence on record has found the accused persons are guilty of the offences punishable under Section 304-B read with Section 498-A IPC and, accordingly, has sentenced them for seven years of rigorous imprisonment. Aggrieved by the said judgment, appellants had filed a criminal appeal before the High Court with an application for suspension of sentence/grant of bail. The High Court at the preliminary stage considering that there is no likelihood of the appeal being heard early, suspended the sentence and granted bail to the accused by its orders dated 2.11.1994 and 16.12.1994. During the pendency of appeal Khushia Ram, accused no. 2 expired on 21.7.2006 and, therefore, the High Court has dropped proceedings against him.

- 4) The High Court after scrutinizing the evidence on record has held that the deceased was compelled to commit suicide by the appellants in order to satisfy their lust for dowry, for which appellants are responsible and thereby dismissed the appeal.
- 5) We have heard learned counsel for the accused/appellants and learned counsel for the respondents.
- 6) Learned Counsel for the appellants would submit that the petition is pending for adjudication before this Court and during its pendency this

Court may be pleased to grant bail to the appellants. Learned Counsel would contend on behalf of appellant No.1/Bakshish Ram that he may be granted bail as he is the only bread earner of his family. Learned counsel would further contend on behalf of appellant no.2/Dalip Kaur that as she is a 80 years old lady and is suffering from various old age related ailments and therefore she may be granted bail.

- 7) Before going into merits of the application, we intend to take note of some of the decisions of this court while considering the application for grant of interim bail. This Court in the case of Talab Haji Hussain vs. Madhukar Purshottam Mondkar, 1958 SCR 1226, has observed :

“It is to be remembered that it is not possible to give a list of all the factors which a court may consider in the disposal of a bail application. But, putting the whole thing singly the object, which a court dealing with in an application for bail must keep in mind, is that in any case there should not be any impediment in the progress of the fair trial.”

- 8) This Court in the case of State of Maharashtra v. Anand Chintaman Dighe, (1990) 1 SCC 397, has stated that where the offence is of serious nature, the court has to decide the question of grant of bail in the light of such considerations as the nature and seriousness of offence.
- 9) It is clear from the various decisions of this Court as stated above that, cases where a serious offence had been committed and the accused had been held guilty for the said offence, then his application for grant of bail

should not be decided leniently during the pendency of the appeal. The seriousness and gravity of the offence must be looked into before granting the bail. In the instant case, accused are convicted by the Trial Court for harassing, torturing and compelling the deceased to end her life by committing suicide, and the said conviction is confirmed by the High Court.

10) In the case of *Kashmira Singh v. State of Punjab*, (1977) 4 SCC 291, this Court observed that, so long as this Court is not in a position to hear the appeal of an accused within a reasonable period of time, the Court should ordinarily, unless there are cogent grounds for acting otherwise, release the accused on bail in cases where special leave has been granted to the accused to appeal against his conviction and sentence.

11) Now coming back to the facts of this case, in so far as the first appellant is concerned, the only reason assigned for grant of bail is that he is the only bread earner of the family. In the light of decisions of this court, this contention of the appellant does not impress us to release him on bail for the alleged offence for which he had been convicted by the Courts. Therefore, in our view, for the present he is not entitled to the relief sought in the application.

12) With regard to the case of appellant no.2/Dalip Kaur, it has been contended that she is an 80 years old lady and is suffering from various

age related ailments. This factual assertion is not disputed by the respondents. Looking at the age of the appellant it does not seem fair to hold her back in jail during the pendency of appeal even if she had been convicted for the alleged serious offence, against which she has come before this Court. Furthermore, in the peculiar circumstances of this case and in view of the fact, that the appellant No. 2 is an old lady of 80 years of age and she had already been in jail for more than one year, in our view, she is entitled for the relief prayed in the application. Accordingly, we grant interim bail to the second appellant, subject to the appellant furnishing the bail bond as well as surety to the satisfaction of the Additional Sessions Judge, Jalandhar, Punjab. The observations made by us is only for the purpose of disposal of this application and we make it clear that we have not expressed any opinion on the merits of this appeal.

13)Hearing of the appeal is expedited.

14)The application for grant of bail is disposed of.

.....J.
[TARUN CHATTERJEE]

.....J.
[H.L. DATTU]

New Delhi,

May 08, 2009.

