

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM No.M-20210 of 2015(O&M)

Vikas Batra ...Petitioner

Versus

State of Haryana ...Respondent

2. CRM No.M-20211 of 2015(O&M)

Ramesh Kmar ...Petitioner

Versus

State of Haryana ...Respondent

3. CRM No.M-20212 of 2015(O&M)

Sudhir Kumar ...Petitioner

Versus

State of Haryana ...Respondent

and

4. CRM No.M-20213 of 2015(O&M)

Rajbir Singh ...Petitioner

Versus

State of Haryana ...Respondent

Date of Decision: June 24, 2015

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
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Present: - Mr.V.Ramswarop, Advocate
for the petitioners.

Mr.Arun Luthra, AAG, Haryana
for the respondent - State. -

HARINDER SINGH SIDHU, J.

This judgment shall dispose of four Criminal Miscellaneous petitions bearing No.M-20210 to M-20213 of 2015, wherein, the petitioners have sought anticipatory bail in case FIR No.314 dated 7.6.2015 under Sections 306/34 IPC, registered at Police Station Sadar Bahadurgarh, District Jhajjar.

The petitioners in these petitions namely; Vikas Batra, Ramesh Kumar, Sudhir Kumar and Rajbir Singh are serving as Deputy Chief General Manager-cum-Depot Manager, Traffic Inspector, Driver and Conductor, respectively, in Delhi Transport Corporation.

The FIR has been lodged on the basis of a complaint dated 7.6.2015 filed by Sumeet son of the deceased Suresh Kumar. It is alleged therein that his father worked as driver in Delhi Transport Undertaking and was posted in Shadipur Depot. It is alleged that when he had gone for duty in the early morning on 27.5.2015, he found that his name was not there in the attendance register. All the accused had connived to mark him absent. He met the accused and protested. He was sent from one person to another, and later they all beat him up so that he became unconscious. After regaining consciousness he got himself admitted in Metro Hospital and it was found that three of his ribs had cracked. He remained in one or the other hospital till 30.5.2015, whereafter he went home on being discharged. On 27.5.2015 he was also placed under suspension. The complainant went to the Police Station Patel Nagar on 28.5.2015 to get a case registered, where he was asked to come the next day.

But on the next day also case was not registered. When the complainant and his father went to the Police Station once again on 1.6.2015 to get the case registered, they were met there by all the accused, who pressurized and made false promises to reinstate him on 2.6.2015 and succeeded in getting him to compromise by stating that he did not want any action on the MLC of Metro Hospital. However when the complainant's father went to meet Sh. Vikas Batra Deputy Chief General Manager-cum-Depot Manager, one of the accused, instead of reinstating him as promised, the complainant's father was asked to admit that he had taken liquor and was threatened with disciplinary action. His father came home disturbed and was muttering the names of the four accused and repeating that they had misbehaved with him. He remained perturbed on 3.6.2015 and 4.6.2015. On 5.6.2015 on getting up it was found that the complainant's father had committed suicide. On 6.5.2014 during the search of his bag three-four hand-written papers were found wherein he had written the names of the four accused as being responsible for his suicide.

Ld. Counsel for the petitioner has argued that the case is totally false. He states that it is not a case of suicide, but appears to be a case of natural death. Suresh Kumar had been found dead on 5.6.2015, but the matter was reported to the police two days later on 7.6.2015. He questions that if it was suspected to be a case of suicide then there is no explanation as to why no medico-legal/ post-mortem examination was got conducted to find out the cause of death. He states that the departmental officials had attended the

cremation of the deceased and even paid Rs. 7500/- sanctioned by the department for the cremation of the deceased. At the funeral the family members had stated that the deceased had died due to heart attack.

Explaining about the incidents of 27.5.2015, he states that in fact the deceased had come for duty late on that date and left after about 10 minutes. Thereafter, he returned after lunch in a drunken condition and was hurling abuses at the officers and co-employees, thereby causing interruption in the evening outshedding. Security had to be called to nab him. A report regarding the incident was prepared by Shiv Kumar, Traffic Inspector at 2.30 P.M., on the basis of which he was placed under suspension that very day. It is further stated that the MLC form of the Metro Hospital which records his arrival time at 3.40 P.M. on 27.5.2015 specifically mentions that his alcoholic breath report is positive which indicates that he had taken alcohol, which corroborates the version of the accused. It is stated that the deceased had on 1.6.2015 himself given in writing to the SHO P.S. Patel Nagar, New Delhi, that he had made a complaint against the four accused as he was under the influence of liquor and was disturbed because of not been given duty and that he does not want any legal action on the MLC.

It is argued that the deceased was habitual of not performing his duties diligently and with dedication and he had on earlier occasions been proceeded against departmentally. He states that for discharging their official duties and by taking departmental action against an errant employee the accused have committed no

crime, much less can they be charged under Sections 306/34 IPC. He states that barring some alleged suicide note, the authenticity of which has not been established till date, there is nothing to suggest that the deceased had in fact committed suicide and that his death was not a natural death.

On the other hand, Ld. State Counsel has stated that the deceased had been harassed by the accused, as a result of which, he remained disturbed for three-four days prior to his death, and ultimately committed suicide. He argued that the accused are influential persons and if they are granted the benefit of anticipatory bail they may tamper with evidence.

I have considered the arguments of the Ld. Counsel for the parties.

At this stage, the case of the prosecution is that the deceased was beaten by the accused on 27.5.2015, he was placed under suspension on the same day by the staff to create a defence, that he was forced to sign a compromise on 1.6.2015 on promise of revoking his suspension, which promise was not honoured and in fact when he went to the office on 2.6.2015, he was threatened and shunted out of the office, he remained perturbed over the next two-three days and ultimately he was found to have committed suicide on 5.6.2015. On 6.6.2015, some pieces of paper were found from his bag with the writing that the accused are responsible for his suicide.

The question is whether on these allegations, the prayer of the petitioners for anticipatory bail is liable to be granted. To my mind, the answer has to be in the affirmative for reasons more than one.

First, at this stage the very foundational ingredient of the offence under Section 306 IPC is missing, namely that the death was in fact a suicide and not a natural death or for some other cause. No autopsy was got conducted by the family of the deceased. It is only the alleged suicide notes and the preceding circumstances narrated in the FIR which are being relied upon. Secondly, if indeed it was a suicide, the acts attributed to the petitioners-accused do not appear to be of a nature where they can, without more, be said to have provoked, incited or induced the deceased to commit suicide, nor can it be said that they had necessary *mens rea* of doing so. It cannot be said that these acts are of such a nature that they left the deceased with no alternative but to commit suicide as the only way out of a desperate situation. It is on record that in his service career of about 27 years from 1988 till 2015, the deceased had been awarded minor punishments many times and even placed under suspension. He had at no stage raised any grievance against any official of victimization.

The petitioners are public servants, who appear to have acted in the bonafide discharge of their official duties. The alleged acts attributed to them do not bring the case within the ambit of Section 306 IPC. In case they are arrested, it may irreparably damage their careers. There is no likelihood of their absconding or fleeing from justice.

In the above circumstances, I feel that it is a fit case for the grant of anticipatory bail.

Accordingly, the petitions are allowed. It is directed that

in the event of arrest, the petitioners (Vikas Batra, Ramesh Kumar, Sudhir Kumar and Rajbir Singh) shall be released on anticipatory bail to the satisfaction of the Arresting/ Investigating Officer, subject to the conditions provided under Section 438(2) Cr.P.C. The petitioners are also directed to join the investigation and cooperate with the Investigating Agency, as and when required.

It is clarified that nothing stated in this order shall be construed as an expression of opinion on the merits of the case.

June 24, 2015

Atul

**(HARINDER SINGH SIDHU)
JUDGE**