

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRM-M-30091-2015
Date of decision: 10.9.2015**

Bajrang Lal Gupta and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Mr.R.S.Rai, Sr. Advocate with
Mr.Rahul Bhargava, Advocate for the petitioners.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioners seek pre-arrest bail in FIR No.0571 dated 4.8.2015 registered under Sections 304-B, 306, 506 and 34 of the Indian Penal Code at Police Station Civil Lines, Karnal.

Learned Senior Counsel for the petitioners submits that petitioners are parents-in-law of the deceased namely Ms.Bharti Gupta. He would further submit that since the deceased was living with her parents, for most of the time, they had hardly any role to play in forcing the deceased to take the extreme step of committing suicide. He further submits that since Anurag Gupta-son of the petitioners and husband of the deceased was living in Canada, petitioners as well as their son were making every possible effort to arrange relevant permission and papers for the deceased so that she may also join her husband in Canada as early as possible. However, since the procedure was cumbersome and time consuming, as per the relevant provisions of law prevailing in Canada, they could not arrange the permission for her at an early date and in the meantime, the deceased came

under mental depression, because of which she committed suicide. He concluded by submitting that in such circumstances, custodial interrogation of the petitioners would not be required and they deserve the concession of anticipatory bail. He prays for allowing the present petition.

Having heard the learned senior counsel for the petitioners at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that keeping in view the facts and circumstances of the present case, petitioners have not been found entitled for the concession of anticipatory bail. To say so, reasons are more than one, which are being recorded hereinafter.

Peculiar fact situation obtaining in the present case discloses a very sorry state of affair, wherein this Court is constrained to say that the petitioners, as well as their son, have treated the institution of marriage just as a mockery. It is so said, because the marriage between Ms. Bharti Gupta and Anurag Gupta took place on 9.11.2013. Anurang Gupta, son of the petitioners and husband of the deceased, left for Canada on 16.11.2013, that is just within one week. Thereafter, he came back to India only on 12.1.2015 and again left for Canada on 16.1.2015. He again came to India on 3.5.2015 and left for Canada on 6/7.5.2015. Deceased was a highly educated young woman who was pursuing her Directorate from the National Dairy Research Institute, Karnal. She has left behind a detailed and lengthy suicide note, disclosing pathetic events of unbearable pain and suffering, which has been placed on record as Annexure P-10.

A careful perusal of the suicide note dated 3.8.2015, which would prima facie amount to a dying declaration of the deceased, would

show that petitioners never took any care about their daughter-in-law, particularly when their son had left her in the lurch within very first week of the marriage. It was least expected from the petitioners to be more responsible towards their daughter in-law, while providing her homely atmosphere, extending their full love and affection, but unfortunately the petitioners miserably failed in their duty, on legal as well as moral front, thus, they have certainly contributed a lot in forcing the deceased to take this extreme step of committing suicide. A brilliant young career has been cut short and this Court is of the definite view that petitioners have played an important, definite and negative role in this regard.

In fact, petitioners proceeded right from day one, on an inhuman approach towards their daughter-in-law, whereas their son was enjoying his life while living aboard. A young daughter-in-law, who was highly qualified, would certainly like to spend her time in the matrimonial home, had she been provided a conducive atmosphere over there and it was only possible because of the good conduct on the part of the petitioners. In such a situation, it can be safely concluded that the petitioners have played a major role, while forcing their daughter-in-law to meet this tragic end. This was the reason that they have been found equally responsible with their son, husband of the deceased, who jointly forced the deceased to take the extreme step. In this view of the matter, it is unhesitatingly held that petitioners are not entitled for the concession of anticipatory bail.

Common criminal intention of the petitioners was writ large. They did not allow the deceased to stay in the matrimonial home as if it was a holiday marriage for their son. He would come from Canada as per his will and convenience, would stay with the deceased for a few days and

leave again. Thus, petitioners and their son together made the life of the deceased a hell. In such a situation, petitioners do not deserve the discretionary relief of pre-arrest bail.

The abovesaid view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court in **State through CBI v/s Anil Sharma, 1997 (7) SCC 187** and **Siddharam Satlingappa Mhetre v/s State of Maharashtra, 2011 (1) SCC 694**.

The relevant observations made by the Hon'ble Supreme Court in para 4 of its judgment in **Anil Sharma's case (supra)**, which can be gainfully followed in the present case, read as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

Again, after detailed discussion on the subject, explaining the object and scope of Section 438 Cr.P.C., the Hon'ble Supreme Court, in paras 121 and 122 of its judgment in **Siddharam Satlingappa Mhetre'** case

(supra), held as follows:-

“Relevant consideration for exercise of the power

121. No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail. We are clearly of the view that no attempt should be made to provide rigid and inflexible guidelines in this respect because all circumstances and situations of future cannot be clearly visualized for the grant or refusal of anticipatory bail. In consonance with the legislative intention the grant or refusal of anticipatory bail should necessarily depend on facts and circumstances of each case. As aptly observed in the Constitution Bench decision in Sibbia’s case (supra) that the High Court or the Court of Sessions to exercise their jurisdiction under section 438 Cr.P.C. by a wise and careful use of their discretion which by their long training and experience they are ideally suited to do. In any event, this is the legislative mandate which we are bound to respect and honour.

122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- iii. The possibility of the applicant to flee from justice;*
- iv. The possibility of the accused’s likelihood to repeat similar or the other offences.*
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*

- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*
- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”*

Reverting back to the facts of case in hand and respectfully following the law laid down by the Supreme Court, in the cases referred to hereinafter, it can be safely concluded that when the allegations levelled against the petitioners in the FIR as well as in the suicide note are read together, the custodial interrogation of the petitioners becomes the compulsive necessity of the investigating agency to conduct an effective investigation. The reason to say so is that the deceased has levelled specific allegations against the petitioners in her suicide note that they sent somebody to threaten the deceased to kill her and get her gang raped.

Further, serious allegation against the petitioners was that parents of the

deceased would be killed if she does not give divorce to their son. Thus, the allegations are direct and serious. Who was that person, his mobile number, call details etc. are the matters of investigation for which protected investigation will not be result oriented and custodial interrogation of the petitioners will be required.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noticed above, coupled with the reasons aforementioned, this Court is of the considered view that the instant petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for anticipatory bail has been made out.

Dismissed.

10.9.2015
mks

(RAMESHWAR SINGH MALIK)
JUDGE