

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.7226 of 2015

Date of Decision: 10.03.2015.

Nekdeep Kumar @ Sunny

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Gulzar Mohammad, Advocate
for the petitioner.

Mr. Mikhail Kad, AAG, Punjab.

Tejinder Singh Dhindsa, J.(Oral)

This order shall dispose of the present petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.73 dated 05.05.2014 under Section 306 IPC registered at Police Station Maksudan, Distt. Jalandhar on the statement of complainant-Jaswant Rai Saini. Deceased is Geeta Saini i.e. Daughter of the complainant.

Prosecution version is that on 04.05.2014 when the complainant had gone out of his house as regards the repair of his office and having returned back in the afternoon his daughter was not present in the house and accordingly he made enquiries from his wife namely Reena Saini. Ultimately wife of the complainant is stated to have made a phone call on the mobile phone of the deceased Geeta.

It is further alleged that in response Geeta had informed that the present petitioner Nekdeep Kumar @ Sunny who was a neighbor had been

harassing her for last 10 days and she had come out of the house to commit suicide.

The petitioner was arrested on 06.05.2014 and is in custody ever since.

However learned State counsel would vehemently oppose the present petition by contending that during the course of investigation statements have been recorded and as per the statements, it has come that the present petitioner was blackmailing the deceased Geeta Saini on the pretext that he had an objectionable MMS on his mobile phone and threatened her to disclose the contents thereof.

Learned counsel for the parties have been heard.

It is by now well settled that in a case of alleged abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of the offence. For offence under Section 306 of the Indian Penal Code to be made out, there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led to the deceased to commit suicide seeing no other option and that act must have been intended to push the deceased into such a position that he/she committed suicide.

Towards such settled position of law a reference may be made to the judgment of the Hon'ble Supreme Court in ***Chitresh Kumar Chopra Vs. State (Govt. Of NCT of Delhi), 2009 (4) RCR (Criminal) 196.***

In the present case the issue as to whether an offence under Section 306 of the Indian Penal Code would be made out against the present petitioner would be a moot point to be adjudicated upon during the course

of trial.

Learned State counsel upon instructions from ASI Tarlok Singh would apprise the Court that the investigation in case having been completed, challan was presented on 27.06.2014 and the charges were framed on 25.07.2014, and out of 16 prosecution witnesses cited, only 5 have been examined till date. Trial as such would take time to conclude.

In the totality of circumstances and keeping in view the length of incarceration already suffered by petitioner and without expressing any opinion on the merits of the case, present petition is allowed.

Bail to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Jalandhar.

Petition disposed of.

10.03.2015

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(Tejinder Singh Dhindsa)
Judge